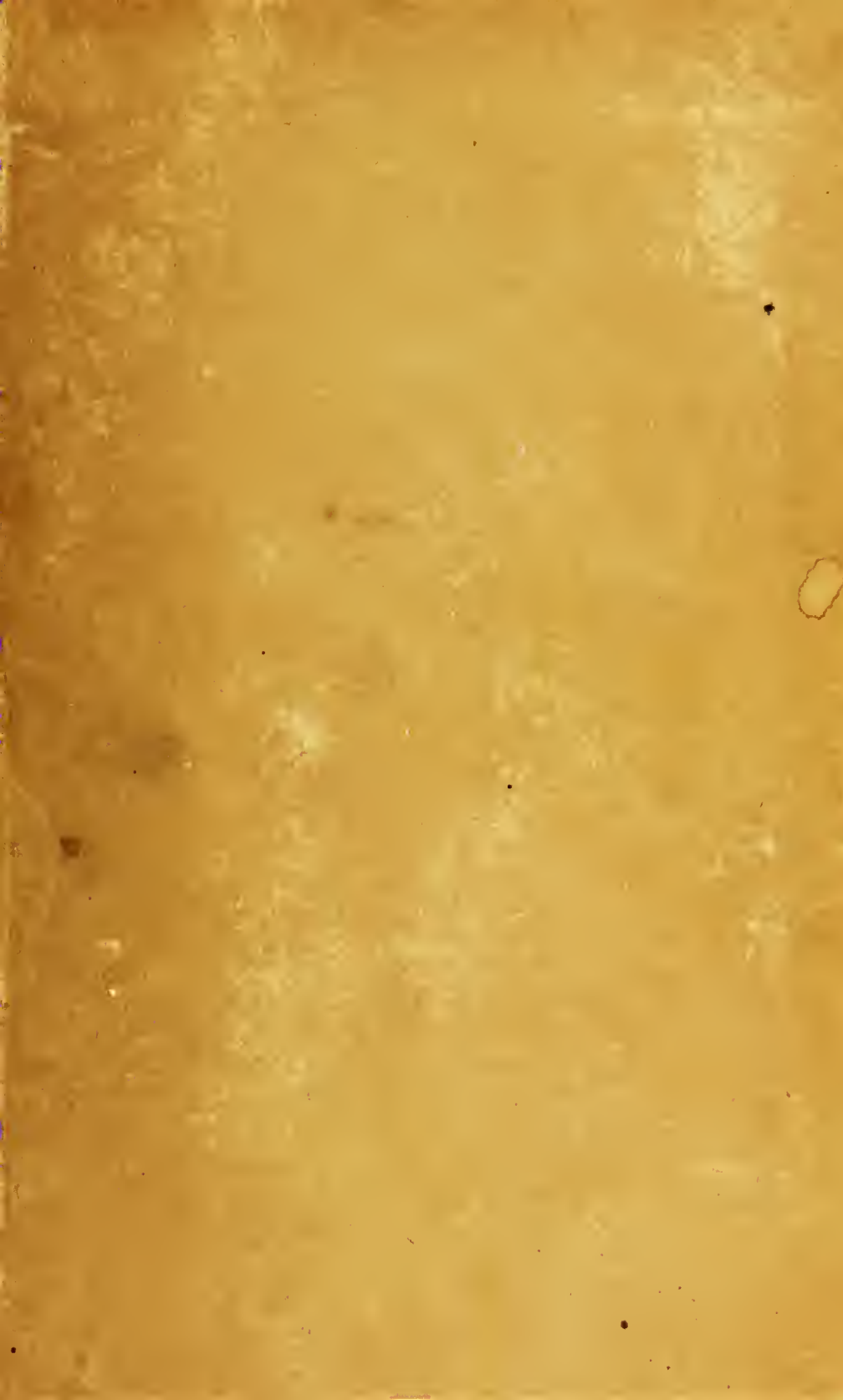
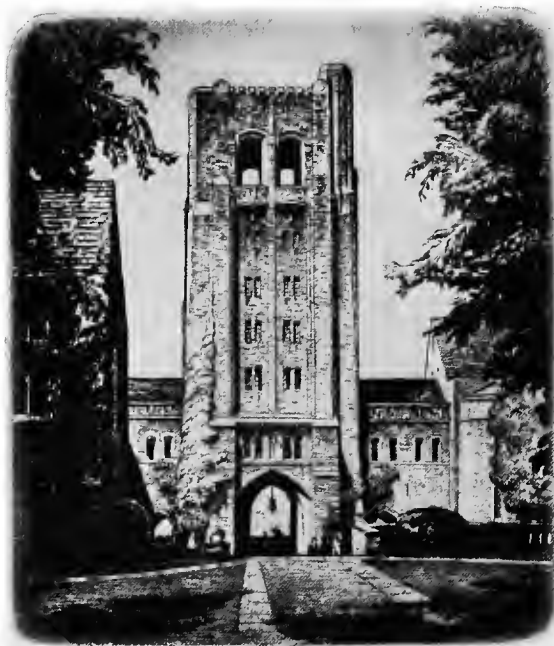




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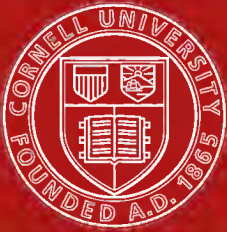
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ABSTRACT
OF
CRIMINAL LAWS

OF
MASSACHUSETTS. *Laws,*

Revised Edition.

1869.

BY THE CONSTABLE OF THE COMMONWEALTH,
FOR USE OF STATE POLICE.

BOSTON:
WRIGHT & POTTER, STATE PRINTERS, NO. 79 MILK STREET,
(CORNER OF FEDERAL STREET).
1869.

LA 15825

Office of Constable of the Commonwealth.

No. 50 BROMFIELD ST., BOSTON, MASS., }
July 1, 1869. }

The following Abstract of the Criminal Statutes of this Commonwealth is prepared and arranged for the convenience of the Officers of this Department, and they are advised to carefully study and understand each section of the laws under which they are performing official service, in the discovery and prosecution of crime.

A full set of blank Complaints, Warrants, Notices, &c., for the seizure, keeping and destroying intoxicating liquors, are now ready for delivery to Deputies, where they can be effectually used. They are the forms prescribed in the four hundred and fifteenth chapter of the Statutes of eighteen hundred and sixty-nine of this Commonwealth, and to make them complete it is only necessary they should be properly filled out, signed and sealed by the Police Magistrate, Trial Justice or Justice of the Peace who may issue them.

The Circular accompanying said blanks explains the purpose and mode of using, as required by law. Blank forms for the seizure, detention and destruction of gaming instruments are also ready for use, and the laws in reference to this class of offences are very plain and practicable, not only in reference to seizing and destroying gaming implements, furniture and fixtures, but also as to the arrest of keepers and persons engaged in gambling, or present at such games, when such seizures are made.

The forms for prosecuting other classes of cases are usually in possession of all Police Magistrates, from whom they can be obtained, and are too common and familiar to require any suggestion from this office.

EDWARD J. JONES,
Constable of the Commonwealth.

CONTENTS.

[Full Index in last pages of Abstract.]

	Page.
Adulterated Commercial Fertilizers, ...	135
Billiard Tables and Bowling Alleys, ...	88
Common Nuisances, ...	32
Cruelty to Animals, ...	104
Employment of Children, ...	98
Exhibiting Fighting Birds and Animals, ...	89
Felonies, Accessories, Abettors, etc., ...	78
Fisheries, ...	119
Forgery, and Offences against the Currency, ...	59
Gaming, ...	10
Hawkers and Peddlers, ...	114
Insurance Brokers, ...	135
Lotteries, ...	94
Manufacture, Sale, etc., of Intoxicating Liquors, ...	14
Observance of the Lord's Day, ...	7
Offences against the Person, ...	36
Offences against Property, ...	41
Offences against Public Justice, ...	65
Offences against the Public Peace, ...	70
Offences against the Public Health, ...	73
Offences against Chastity, Morality and Decency, ...	80
Petroleum and its products, ...	136
Prisoners, ...	34
Protection of Animals, ...	106
Protection of Birds, ...	112
Protection of Religious Meetings, ...	118
Sentence of Criminals, ...	91
Search Warrants, ...	92
State Police, ...	102
Vagrants and Vagabonds, ...	97

OBSERVANCE OF THE LORD'S DAY.

[Chapter 84, General Statutes.]

OF THE OBSERVANCE OF THE LORD'S DAY.

SECT. 1. Whoever keeps open his shop, warehouse or work-house, or does any manner of labor, business or work, except works of necessity and charity, or is present at any dancing or public diversion, show, or entertainment, or takes part in (or is present at) any sport, game or play, on the Lord's day, shall be punished by a fine not exceeding ten (fifty) dollars for every offence.

Prohibition of labor, &c.
AMENDMENTS.
See Chap. 152, Acts of 1862.
Chap. 143, Acts of 1863.

SECT. 2. Whoever travels on the Lord's day, except from necessity or charity, shall be punished by fine not exceeding ten dollars for every offence.

Of travelling.

SECT. 3. Whoever keeping a house, shop, cellar, or place of public entertainment, or refreshment, entertains therein on the Lord's day any persons not being travellers, strangers or lodgers, or suffers such persons on said day to abide or remain therein, or in the yards, orchards or fields, appertaining to the same, drinking, or spending their time idly or at play, or in doing any secular business, shall be punished by fine not exceeding five dollars for each person so entertained or suffered so to abide and remain; and upon any conviction after the first, by fine not exceeding ten dollars; and if convicted three times, he shall thereafter be incapable of holding a license; and every person so abiding or drinking shall be punished by fine not exceeding five dollars.

Persons keeping places of entertainment, &c., not to entertain any other than travellers, &c.
REPEALED.
See Chap. 79, Acts of 1864, following.

SECT. 4. Whoever is present at a game, sport, play or public diversion, except a concert of sacred music, upon the evening of the Lord's day, or upon the evening next preceding the Lord's day, unless such game, sport, play, or public diversion, is licensed by the persons or board authorized by law to grant licenses in such cases, shall be punished by fine not exceeding five dollars for each offence.

Prohibitions as to Saturday and Sunday evenings, &c.

SECT. 5. No person licensed to keep a place of public entertainment shall entertain or suffer to remain or be in his house, yard, or other places appurtenant, any persons, not being travellers, strangers or lodgers, in such house, drinking and spending their time there, on the Lord's day, or the evening preceding the same; and every such innholder or other person so offending shall be punished by fine not exceeding five dollars for each offence.

Innholders not to entertain persons on Saturday or Sunday evenings, except, &c.

Writs, &c., not to be served on the Lord's day:

SECT. 6. No person shall serve or execute any civil process on the Lord's day; but such service shall be void, and the person serving or executing such process shall be liable in damages to the party aggrieved in like manner as if he had no such process.

Penalty for rude behavior in churches.

SECT. 7. Whoever on the Lord's day, within the walls of any house of public worship, behaves rudely or indecently, shall be punished by fine not exceeding ten dollars.

Sheriffs, &c., to inform of offences.

SECT. 8. All sheriffs, grand jurors, and constables, shall inquire into and inform of all offences against the preceding provisions of this chapter, and cause the same to be carried into effect.

Provision for persons who observe Saturday as the Sabbath.

SECT. 9. Whoever conscientiously believes that the seventh day of the week ought to be observed as the Sabbath, and actually refrains from secular business, travel, and labor, on that day, shall not be liable to the penalties of this chapter for performing secular business, travel, or labor, on the Lord's day, or first day of the week: *provided*, that he disturbs no other person.

Prosecutions when to be instituted.

SECT. 10. Prosecutions for penalties incurred under the preceding provisions of this chapter shall be instituted within six months after the offence is committed.

Penalty on innholders, &c., who permit implements of gaming to be used on Lord's day, &c.

SECT. 11. Any innholder, common victualler, or person, keeping or suffering to be kept in any place occupied by him, implements such as are used in gaming, in order that the same may for hire, gain or reward, be used for purposes of amusement, who on the Lord's day uses or suffers to be used any implements of that kind upon any part of his premises, shall for the first offence forfeit a sum not exceeding one hundred dollars, or be imprisoned in the house of correction not exceeding three months; and for every subsequent offence shall be imprisoned in the house of correction for a term not exceeding one year; and in either case shall further recognize, with sufficient sureties, in a reasonable sum for his good behavior, and especially that he will not be guilty of any offence against the provisions of this section, for the space of three months then next ensuing.

"Lord's day," what it includes.

SECT. 12. The Lord's day shall include the time from midnight to midnight.

[Chapter 170, General Statutes.]

When bailed on Lord's day.
1855, 265, § 2.

SECT. 38. Persons committed to jail on the Lord's day, or on the evening or afternoon preceding, may be admitted to bail on that day, when in the opinion of the magistrate an application for that purpose appears to be proper.

Observance of the Lord's Day.

9

[Chapter 152, Acts of 1862.]

AN ACT to amend the Statute relating to the Observance of the Lord's Day.

The provisions of the first section of the eighty-fourth chapter of the General Statutes shall apply to any person who is present at any game on the Lord's day. *Approved April 26, 1862.*

Section 1st, chapter 84 G. S. amended.

[Chapter 143, Acts of 1863.]

AN ACT concerning certain Offences committed on the Lord's Day.

SECT. 1. Section one, chapter eighty-four, of the General Statutes, is hereby so far amended that the offences named therein shall be punished each by a fine not exceeding fifty dollars. *Penalty.*

SECT. 2. This act shall take effect upon its passage. *Approved April 10, 1863.*

[Chapter 79, Acts of 1864.]

AN ACT concerning the Observance of the Lord's Day.

SECT. 1. Whoever keeping a house, shop, cellar or place of public entertainment or refreshment, entertains therein on the Lord's day any persons not being travellers, strangers or lodgers, or suffers such persons on said day to abide or remain therein, or in the yards, orchards or fields appertaining to the same, drinking, or spending their time idly or at play, or in doing any secular business, shall be punished by fine not exceeding fifty dollars for each person so entertained or suffered so to abide or remain; and upon any conviction after the first, by fine not exceeding one hundred dollars; and if convicted three times, he shall thereafter be incapable of holding a license. *Public entertainment forbidden, except certain.*

SECT. 2. The third section of chapter eighty-four of the General Statutes is hereby repealed: but this repeal shall not affect any proceeding under said section commenced before this act takes effect. *Penalty.*

SECT. 3. This act shall take effect upon its passage. *Repealing section 3, chapter 84.*

Approved March 5, 1864.

[Chapter 253, Acts of 1865.]

AN ACT for the better Observance of the Lord's Day.

SECT. 1. Any person who shall discharge any firearms for sport, or in the pursuit of game, on the Lord's day, shall, upon

Penalty for use of firearms.

conviction thereof, be punished by a fine not exceeding ten dollars.

Attempting to take fish.

SECT. 2. Whoever attempts to take or catch any fish on the Lord's day, by using any hook, line, net, spear or other instrument, on any of the waters within this Commonwealth, shall, upon conviction thereof, be punished by a fine not exceeding ten dollars.

Prosecutions.

SECT. 3. All prosecutions under this act shall be instituted within thirty days from the time the offence is committed.

Approved May 16, 1865.

GAMING.

[Chapter 85, General Statutes.]

OF GAMING.

Persons losing money by gaming may recover it back.

SECT. 1. Whoever by playing at cards, dice, or other game, or by betting on the sides or hands of such as are gaming, loses to any person so playing or betting any sum of money, or any goods whatever, and pays or delivers the same or any part thereof to the winner, may sue for and recover such money and goods in an action of contract; and if the loser does not within three months after such loss, without covin or collusion, prosecute with effect for such money or goods, any other person may sue for and recover treble the value thereof in an action of tort.

Owner of gaming house liable for money lost in certain cases.

SECT. 2. The owner, tenant, or occupant of any house or building in which money or goods are lost by gaming, or by betting on the sides or hands of such as are gaming, with the knowledge or consent of said owner, occupant, or tenant, shall be liable to an action in the same manner and to the same extent as the winner thereof is liable by the provisions of the preceding section.

Penalty for winning, &c., \$5 or more.

SECT. 3. Whoever, on a prosecution commenced within eighteen months after the commission of the offence, is convicted of winning at one time or sitting, by gaming or betting on the sides or hands of such as are gaming, any money or goods to the value of five dollars or more, and of receiving the same or any security therefor, shall forfeit double the value of the money or goods so won and received.

Notes, conveyances, &c., for gaming void.

SECT. 4. All notes, bills, bonds, mortgages, or other securities or conveyances, in which the whole or part of the consideration is money or goods won by gaming or playing at cards, dice, or any other game, or by betting on the sides or hands of persons gaming, or for re-imbursing or repaying money knowingly lent or advanced for gaming or betting, or lent and advanced at the time and place of such gaming or betting to a

person so gaming or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith and without notice of the illegality of the consideration. When a mortgage or other conveyance of lands is adjudged void under the provisions of this section, the lands shall inure to the sole use and benefit of such person as would be then entitled thereto if the mortgagor or grantor were naturally dead; and all grants or conveyances for preventing such lands from coming to or devolving upon the person to whose use and benefit said lands would so inure, shall be deemed fraudulent and of no effect.

SECT. 5. Every innholder, common victualler, or person keeping or suffering to be kept, in any place occupied by him, any implements such as are used in gaming, in order that the same may for hire, gain, or reward, be used for purposes of amusement, who suffer any implements of that kind to be used upon any part of his premises for the purpose of gaming for money or other property, or who suffers a person to play at an unlawful game or sport therein, shall for the first offence forfeit a sum not exceeding one hundred dollars, or be imprisoned in the house of correction for a term not exceeding three months; and for every subsequent offence shall be imprisoned in the house of correction for a term not exceeding one year; and in either case shall further recognize, with sufficient sureties in a reasonable sum, for his good behavior, and especially that he will not be guilty of any offence against the provisions of this chapter for three years then next ensuing.

Penalty on innholders, &c., for keeping, &c., implements for gaming for money, &c.

SECT. 6. Whoever in any place mentioned in the preceding section for the purpose of gaming for money or other property, uses or takes part in using any billiard table, bowling alley, or other implements of gaming, or there plays at an unlawful game or sport, or for the purpose of such gaming, uses or takes part in using a billiard table or bowling alley kept by a person licensed as provided in chapter eighty-eight, shall forfeit a sum not exceeding fifty dollars for each offence.

Penalty for gaming in such places, and in places licensed for bowling alleys, &c.

SECT. 7. Whoever keeps a common gaming house, or in a building, booth, yard, or garden, by him actually used and occupied, commonly keeps, or suffers to be kept, any tables or other apparatus for the purpose of playing at any unlawful game or sport for money or any other valuable thing, shall for every such offence forfeit a sum not exceeding one hundred dollars, and be committed to the house of correction for a term not exceeding six months and not less than thirty days; and shall also recognize with sufficient sureties in a reasonable sum for his good behavior, and especially that he will not be guilty of any offence against the provisions of this chapter for three years next ensuing.

Punishment for keeping common gaming house.

SECT. 8. If a person makes oath before a justice of the peace or police court that he suspects, or has probable cause to suspect, that a house or other building is unlawfully used as and

Common gaming houses to be entered and parties arrested.

AMENDED. See
ch. 364, 1869.

for a common gaming house for the purpose of gaming for money or other property, and that idle and dissolute persons resort to the same for that purpose, such justice or court, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff, or his deputy, or any constable, to enter into such house or building, and there to arrest all persons who are there found playing for money or otherwise, and also the keepers of the same, and to take into their custody all the implements of gaming as aforesaid, and to keep said persons and implements so that they may be forthcoming before some court or magistrate to be dealt with according to law; and whoever is there found so playing, shall forfeit for every such offence a sum not exceeding fifty dollars.

[NOTE.—The complainant must allege in the complaint that “he *believes* and has *probable cause to believe*” — instead of using the word “*suspect*,” — as in above section.]

Gaming at
muster, &c.

SECT. 9. Whoever during, or within twelve hours of the time of holding a cattle-show, military muster, or public gathering, within one mile of the place thereof, practises or engages in any gambling or unlawful game, shall forfeit for each offence a sum not exceeding twenty dollars. If he is discovered in the act, he may be arrested by any sheriff, deputy-sheriff, constable, or other civil officer, and lawfully detained, by imprisonment in jail or otherwise, not exceeding twenty-four hours, until a complaint is made against him for the offence.

[Chapter 87, General Statutes.]

Buildings re-
sorted to for
prostitution,
&c., nuisances.
1855, 405, § 1.
7 Gray, 328.
13 Gray, 26.
—penalty for
keeping.
1855, 405, § 2.

SECT. 6. All buildings, places or tenements resorted to for prostitution, lewdness or illegal gaming, or used for the illegal keeping or sale of intoxicating liquors, shall be deemed common nuisances.

SECT. 7. Whoever keeps or maintains such common nuisance shall be punished by fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding one year.

Such use of
premises by
tenant to avoid
lease, &c.
1855, 405, § 3.

SECT. 8. If a tenant or occupant, under a lawful title of any building or tenement, uses such premises, or any part thereof, for any of the purposes enumerated in section six, such use shall annul and make void the lease or other title under which he holds, and, without any act of the owner, shall cause the right of possession to revert and vest in such owner, and the owner may, without process of law, make immediate entry upon the premises, or he may avail himself of the remedy provided in chapter one hundred and thirty-seven.

Penalty on
landlord for let-
ting, &c., build-
ing for such
purposes.
1855, 405, § 4.

SECT. 9. Whoever knowingly lets a building or tenement owned by him, or under his control, for any purpose enumerated in section six, or knowingly permits such building or tenement,

or any part thereof, while under his control, to be used for such purpose, or after due notice of any such use omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can lawfully be done, shall be deemed guilty of aiding in the maintenance of such nuisance, and punished by fine of not less than one hundred nor more than one thousand dollars, or imprisonment in the jail not less than thirty days, nor more than six months.

SECT. 10. The mayor and aldermen or selectmen of any place, upon complaint made to them under oath, that the complainant has reason to believe, and does believe, that any booth, shed or other temporary erection, situated within one mile of any muster-field, cattle-show ground or other place of public gathering, is used and occupied for the sale of spirituous or fermented liquors, or for the purpose of gaming, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same forthwith. If the owner or occupant refuses or neglects so to do, the mayor and aldermen or selectmen may forthwith abate such booth, shed or erection as a nuisance, and pull down or otherwise destroy the same, in any manner they choose, or through the agency of any force, civil or military.

Booths, &c., used for gaming, &c., near public shows, &c., how removed. 1850, 291. 1851, 91.

[Chapter 161, General Statutes.]

SECT. 57. Whoever by the game of three-card monte, so called, or any other game, device, sleight of hand, pretensions to fortune telling, trick, or other means whatever, by the use of cards, or other implements or instruments, fraudulently obtains from another person property of any description, shall be punished as in case of larceny of property of like value.

Obtaining property by tricks at cards, &c. 1855, 135, § 1. See Ch. 116, § 14. Ch. 120, § 41.

[Chap. 364, Acts of 1869.]

AN ACT for the Suppression of Common Gaming Houses.

SECT. 1. The provisions of the eighth section of the eighty-fifth chapter of the General Statutes shall apply to all persons who are found present at any game or sport played for money or other thing of value at a common gaming house, and such persons may be arrested and punished in like manner as persons there found playing.

Persons in gaming house when games are played for money, liable to arrest, &c.

SECT. 2. The second section of the one hundred and seventieth chapter of the General Statutes is hereby so far amended that all provisions relating to the search for and seizure of gaming apparatus or implements used, or kept and provided to be used, in unlawful gaming, in any gaming house, or in any building, apartment or place resorted to for the purpose of unlawful gaming, shall also apply to the search for and

Amendments to G. S. 170, § 2. Provisions extended.

seizure of all the furniture, fixtures and personal property found in such gaming house, building, apartment or place at the time when any persons are there found playing at any unlawful game.

Furniture, &c., seized, may be sold under a decree of the court, and proceeds paid over to the use of the county.

SECT. 3. After the seizure of any furniture, fixtures or personal property, as provided in the preceding section, application shall be made to a court of competent jurisdiction for a decree of condemnation of the same, and if, upon the hearing of said application, it shall be found and adjudged that the same, or any part thereof, was used as the furniture, fixtures or personal property of such gaming-house, building, apartment or place, and was found therein at a time when any persons were there found playing at any unlawful game, the same shall be adjudged forfeit, and the constable of the Commonwealth, or sheriff or their deputies, shall sell the same in such manner as the court shall order, and, after deducting all costs and expenses allowed by the court, shall pay the balance of the proceeds of such sale to the use of the county.

Approved June 9, 1869.

[Chap. 382, Acts of 1869.]

AN ACT to prevent Gaming in Public Conveyances.

Games for money not to be played in public conveyances.
Penalty.

Whoever in any railroad car, steamboat or other public conveyance, plays at cards, dice or other game for money or other property, or bets on the sides or hands of such as are so playing, shall for each offence forfeit a sum not exceeding fifty dollars, or be imprisoned in the house of correction for a term not exceeding three months. If he is discovered in the act, he may be arrested by any sheriff, deputy-sheriff, constable, or other civil officer, and lawfully detained, by imprisonment in jail or otherwise, not exceeding twenty-four hours, until a complaint is made against him for the offence.

Approved June 12, 1869.

Parties offending may be arrested without warrant.

NOTE.—For Gaming Search Warrants, see chapter 170, General Statutes, section 2, under "Search Warrants."

MANUFACTURE AND SALE OF INTOXICATING LIQUORS.

[Chapter 191, Acts of 1869.]

AN ACT concerning Licenses for the Sale of Intoxicating Liquors.

License to sell intoxicating liquors to have no force after April 30, 1869.

SECT. 1. No license authorizing the sale of intoxicating liquors within this Commonwealth shall be issued by any person, or have force or validity, after the thirtieth day of April, in the year eighteen hundred and sixty-nine, anything in any existing law to the contrary notwithstanding.

SECT. 2. This act shall take effect upon its passage. [*Approved April 24, 1869.*]

[Chapter 415, Acts of 1869.]

AN ACT concerning the Manufacture and Sale of Intoxicating Liquors.

COMMISSIONER.

SECT. 1. The governor, with the advice and consent of the council, shall, as soon after the passage of this act as may be, and thereafter annually in the month of January, appoint and commission a competent person as commissioner to purchase and sell spirituous and intoxicating liquors, of a pure quality, to the several city and town agents appointed under the provisions of this act, and to regularly appointed agents in cities and towns of other of the New England states, and to no other person. Such commissioner shall, unless sooner removed, hold his office for one year, and until his successor is appointed and qualified.

Commissioner,
how appointed,
&c.
—to give bond.

SECT. 2. The commissioner, within ten days after being commissioned, shall file in the office of the treasurer of the Commonwealth a bond to the Commonwealth in the penal sum of twenty thousand dollars, with two or more good and sufficient sureties to be approved by the treasurer, for the faithful performance by him of the requisitions of this act.

—to keep place
of business in
Boston, sell to
agents, &c.

SECT. 3. He shall establish and maintain in the city of Boston a suitable place of business, and shall purchase and sell to such agents, and to them only for the purposes in this act specified, spirituous and intoxicating liquors of a pure quality, and unadulterated with any mixture, or noxious or poisonous substance. All liquors kept for sale by him shall be analyzed by an assayer, appointed as hereinafter provided; and he shall sell no spirituous or intoxicating liquors, except such as said assayer in writing certifies to be pure; and all analyzations of liquor shall be made from samples taken by the assayer from original packages purchased by the agent; and all liquors sold by said agent shall be certified by him to have been taken from packages so analyzed. His sales shall be made for cash, and at a price not exceeding an advance of five per cent. upon the actual cost: *provided*, that all sales made by the commissioner in less quantity than the original package, shall be made at a price not exceeding an advance of seven and one-half per cent. upon the actual cost.

Liquors to be
analyzed.

Proviso.

SECT. 4. He shall keep a record, in which shall be plainly and truly recorded all purchases and sales made by him, the names of the persons of, and to whom, and the prices at which, the same were made; which record shall be at all times open to the inspection of the mayor and aldermen and selectmen of the cities and towns, and to the prosecuting officers of the Commonwealth. All packages of liquors sold by him shall have his seal affixed thereto before delivery, and all liquors so purchased or sold and sealed may be transported from place to place.

—to keep record
of all purchases,
sales, &c., and
seal all pack-
ages.

SECT. 5. If he adulterates or causes to be adulterated said liquors, or sells to persons other than those to whom he is authorized by section first of this act, or at an advance greater than allowed by this act upon the cost as aforesaid, he shall forfeit to the Commonwealth the amount of his bond and be imprisoned

Penalty for
adulterating or
selling to per-
sons not agents.

in the state prison not less than six months nor more than five years. And if any person employed by him violates any of the provisions of this section, such person shall be liable to the same term of imprisonment.

Penalty for
selling adulter-
ated liquors.

SECT. 6. If he, or any person in his employ or on his premises, sells any adulterated spirituous or intoxicating liquor, they shall be liable to the penalties provided in section thirty-three for being a common seller.

—not to con-
tract debt on
faith of the
state.

SECT. 7. He shall not contract any debt or obligation, nor incur any liability, on the faith or in behalf of the Commonwealth. He shall receive no commission on his sales, but instead thereof shall receive an annual salary of four thousand dollars, payable quarterly, on the first days of January, April, July and October.

Salary.

Additional com-
pensation.

He shall also be entitled to receive, on the first day of January of every year, a sum equal to seven per cent. upon the amount of capital actually required and furnished by him to establish and maintain the said agency. Said capital shall at no time exceed the sum of forty thousand dollars.

—to import for-
eign liquors af-
ter six months.

After the expiration of six months from the passage of this act, all liquor of foreign production kept or sold by said commissioner, shall be imported by him or under his direction.

—to pay profits
from sales into
state treasury.

All profits accruing from the sale of liquors by said commissioner shall, after deducting such necessary office and incidental expenses as shall be approved by the governor and council, be paid into the treasury of the Commonwealth, semi-annually, on the first days of January and July.

—to report
annually.

SECT. 8. He shall annually, on or before the fifteenth day of October, report to the secretary of the Commonwealth the amount of his sales to city and town agents, in detail; the cost thereof; expenses and profits thereon; designating also the cities and towns to which he has made no sales. The report shall be made up to the last day of the preceding month, shall be printed by the secretary, included with the public series of documents, and laid before the legislature.

—to appoint
agents in Bos-
ton.

SECT. 9. He shall appoint in the city of Boston as many agents, not exceeding five, as he thinks the interests of the citizens require, who shall have the same powers and be subject to the same obligations as agents appointed by the mayor and aldermen of cities, and who shall sell only pure liquors at the lowest cash prices. Their authority shall not continue after the commissioner by whom they are appointed ceases to hold his office.

—successor of,
purchase his
stock.

SECT. 10. In case of the death, removal, or the expiration of the term of office, of the commissioner, his successor shall purchase his stock of spirituous or intoxicating liquors, analyzed and certified as aforesaid, to an amount not exceeding twenty-five per cent. of his last year's sales.

Value of stock,
how deter-
mined.

SECT. 11. If the parties cannot agree upon the value of the liquors, it shall be determined by three persons, one appointed by the person purchasing, one by the person owning the liquors,

and the third by the two so appointed; and their award shall be binding on the parties.

AUTHORITY TO MANUFACTURE AND SELL FOR EXPORTATION, &C.

SECT. 12. The county commissioners of the several counties, and the mayor and aldermen of the city of Boston, on the first Monday of July annually, or as soon thereafter as practicable, may authorize such persons as apply to them in writing, to manufacture spirituous or intoxicating liquors at places within their respective jurisdictions, and to sell the same in quantities not less than thirty gallons, to be exported or to be used in the arts or for mechanical and chemical purposes in this Commonwealth, and such authority shall continue for the term of one year from the date thereof, unless sooner revoked for cause, or annulled as hereinafter provided.

Manufacturers of liquors, how authorized.

SECT. 13. Every such person shall receive from the board by which he is so authorized, a certificate giving him authority to manufacture and sell spirituous and intoxicating liquors as aforesaid, at such place within the jurisdiction of the board as shall be designated with precision in the certificate; but it shall not be delivered to such person until he has executed and given to said board a bond with two good and sufficient sureties in the sum of six thousand dollars, in substance as follows:—

—to receive certificate and give bond.

Know all men that we, as principal, and and , as sureties, are holden and stand firmly bound to the inhabitants of the county of , (or city of Boston, as the case may be,) in the sum of six thousand dollars, to be paid unto them, their successors or assigns, to which payment we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this day of , A. D. . The condition of this obligation is such, that whereas the above bounden has been duly authorized to manufacture spirituous and intoxicating liquors at , in the town (or city) of , and county of , and to sell the same in quantities not less than thirty gallons, to be exported, or to be used in the arts, or for mechanical and chemical purposes, or in any quantity to duly authorized agents of cities and towns, as by law provided, until the day of , A. D. , unless such authority is sooner revoked or annulled: Now, if said shall, in all respects, conform to the provisions of law relating to the business which he is authorized as above to pursue, and shall violate no law of the Commonwealth touching the manufacture and sale of spirituous or intoxicating liquors, during the term for which he is authorized to manufacture such liquors as above mentioned, then this obligation to be void—otherwise to remain in full force.

SECT. 14. If the principal in the bond commits a breach of any condition thereof, his certificate shall thereupon become void, and he shall not thereafter be authorized to manufacture or sell spirituous or intoxicating liquors. If upon complaint made to the county commissioners, or the mayor and aldermen of Boston, and notice to the principal, and a hearing of the parties thereon, any breach of the bond appears to have been

Manufacturer, certificate of, to be void, and bond to be put in suit, &c.

committed, they shall at the expense of the county or city cause the bond to be put in suit, and shall make a record that his authority is revoked and void; or they may put the bond in suit without such complaint, notice, and hearing.

—to keep books open to inspection, in which sales shall be recorded.

SECT. 15. Every such manufacturer shall keep a book, which shall at all times be open to the inspection of the board authorizing him to manufacture, in which he shall enter the date of every sale of spirituous liquors made by him, the name of the purchaser, his residence, and the quantity and kind of liquor sold, and if exported, the place to which exported and the name of the consignee, substantially in the following form:—

Date.	Name of Purchaser.	Residence of Purchaser.	Quantity and Kind of Liquor.	Where Exported.	Name of Consignee.	Purpose of Use.
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Record to be kept, which shall be open to public inspection.

SECT. 16. The clerks of the commissioners and the city clerk of Boston shall keep a record of the names, residences, and certificates, in full, of all persons authorized by said boards respectively to manufacture and sell as provided in section twelve, and the names and residences of all agents furnished them by city and town clerks; which record shall be open to public inspection at all reasonable times; and they shall furnish a list of said names and residences to all persons authorized by their boards to manufacture and sell spirituous or intoxicating liquors, and to all agents whose names have been furnished them as aforesaid.

CITY AND TOWN AGENTS.

Agents for selling to be appointed annually.

SECT. 17. The selectmen of every town containing less than five thousand inhabitants, may, and the mayor and aldermen of every city, and the selectmen of every town containing more than five thousand inhabitants, shall, on the first Monday of July annually, or as soon thereafter as convenient, appoint for one year, unless sooner removed by the board appointing them, one or more suitable persons as agents of such place to purchase and sell, at some convenient places therein, spirituous or intoxicating liquors to be used in the arts, or for medicinal, chemical and mechanical purposes, and no other; and if in any year they neglect for three months after said date to appoint at least one such agent, they shall forfeit one hundred dollars, to be recovered to his own use in an action of tort by any person who may sue for the same. Each agent shall receive such fixed salary, not dependent in amount upon the sales, as the board appointing him shall determine, and in his sales shall conform to such rules and regulations as they may prescribe.

Penalty on town for not appointing.

Salary.

Certificates and bonds.

SECT. 18. Each agent shall receive from the board appointing him a certificate authorizing him, as the agent of such city or town, to purchase and sell at such places therein as shall be

designated with precision in his certificate, intoxicating liquors to be used in the arts, or for medicinal, chemical and mechanical purposes only; but it shall not be delivered to him until he has executed and given to said board a bond, with two good and sufficient sureties in the sum of six hundred dollars, in substance as follows:—

Know all men, that we, _____, as principal, _____ and _____, as sureties, are holden, and stand firmly bound to the inhabitants of the town of _____, (or city as the case may be,) in the sum of six hundred dollars, to be paid unto them, their successors or assigns, to which payment we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this _____ day of _____, A. D. _____. The condition of this obligation is such, that, whereas the above bounden _____ has been duly appointed an agent for the town (or city) of _____ to purchase intoxicating liquors and to sell the same within, for, and on account of said town, (or city,) to be used in the arts, or for medicinal, chemical, and mechanical purposes, and no other, until the _____ day of _____, A. D. _____, unless sooner removed from said agency: Now, if the said _____ shall, in all respects, conform to the provisions of law relating to the business for which he is appointed, and to such rules and regulations as now are, or shall from time to time be, established by the board making the appointment, then this obligation to be void—otherwise to remain in full force.

Form of bond.

The city and town clerks shall keep a record in full of all such appointments, which shall be open to public inspection at all reasonable times; and they shall, as soon as practicable after the appointments, furnish a list thereof to the county commissioners.

Record of appointments.

SECT. 19. Upon complaint made to the mayor and aldermen, or selectmen, they shall notify the principal, and if upon a hearing of the parties it appears that a breach of the conditions of the bond has been committed, they shall revoke and make void his authority; and at the expense and for the use of their city or town, shall cause the bond to be put in suit; or they may put such bond in suit without such complaint, notice, or hearing.

Bond may be put in suit and authority revoked.

SECT. 20. Each agent shall keep an account of all purchases of liquors made by him, and shall specify the kinds and quantity purchased, the prices paid, the persons of whom purchased and the dates of the purchases; and shall also keep a regular account of all the forfeited spirituous or intoxicating liquors delivered to him for sale by order of any justice or court. He shall keep a book and enter therein the date of every sale made by him, the person to whom sold, the kind, quantity, and price thereof, and the purpose for which it was sold, substantially in the following form:—

Agent to keep books of sales open to inspection, and accounts of purchases, &c.

Date.	Name.	Residence.	Kind and quantity.	Purpose of use.	Price.
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which book shall at all times be open to the inspection of the mayor and aldermen, selectmen, overseers of the poor, sheriffs, constables, and justices of the peace, in such city or town.

—to purchase only of commissioner.
—town liable for liquors ordered by agent.

Proviso.

SECT. 21. Each agent shall purchase of the commissioner appointed under section one, all spirituous or intoxicating liquor to be sold by him. If any town or city, or their agent, shall refuse or neglect to pay on delivery for the liquors ordered by them of the commissioner, such town or city shall be liable to the commissioner for the full value of the bill of purchase, with interest after thirty days: *provided, however*, that the mayor and aldermen of any city, or the selectmen of any town, may notify the commissioner, in writing, not to sell to any agent of such city or town, except for cash, and thereupon such city or town shall not be liable for any sales made to such agent, after such notice, unless the same are made on the order, by letter, of the mayor and aldermen of such city, or the selectmen of such town. Any agent purchasing such liquor of any other person, or selling such liquor purchased by him of any other person, shall be liable to the penalties provided in section thirty-three for being a common seller; and any town or city agent who adulterates or causes to be adulterated any of said liquors, or sells the same at a greater advance on their cost than fifteen per cent., shall be subject to a fine of not less than one hundred nor more than five hundred dollars, and be imprisoned in the house of correction not less than six months nor more than two years. If any person employed by any town or city agent violates any of the provisions of this section, he shall be liable to the same punishment.

—may be restrained by S. J. C. from purchasing contrary to law.

SECT. 22. The supreme judicial court shall have jurisdiction in equity, on complaint of any party interested, to restrain and enjoin any agent who purchases or sells spirituous or intoxicating liquors in violation of any law of this Commonwealth; and such injunction may be issued by any justice of the court in term time or vacation.

—to make returns annually.

SECT. 23. Each agent shall annually on or before the fifteenth day of October make a return to the secretary of the Commonwealth of the amount and kind of liquors purchased by him, the date of each purchase, the prices paid, and the name of the party of whom purchased; and if he fails to make such return he shall forfeit a sum not exceeding one hundred dollars. The returns shall be kept on file in the secretary's office, but need not be printed.

Penalty for making false statement to agent.

SECT. 24. Whoever, purchasing spirituous or intoxicating liquor of any agent, intentionally makes a false statement regarding the use to which the liquor is intended to be applied, shall pay a fine of not less than five nor more than twenty dollars.

ASSAYER AND INSPECTOR OF LIQUORS.

Inspector and assayer of

SECT. 25. The governor, with the advice and consent of the council, shall annually appoint and commission a competent

person as an inspector and assayer of liquors, and the said person shall not analyze liquors for other parties than the Commonwealth, cities and towns, during the term of his office. He shall, before receiving his commission, file in the office of the treasurer of the Commonwealth, a bond to the Commonwealth in the penal sum of ten thousand dollars, with two or more good and sufficient sureties, to be approved by the treasurer, for the faithful performance of the duties of his office. The said inspector shall receive an annual salary of three thousand dollars, payable quarterly, on the first days of January, April, July and October.

liquors to be appointed annually.

—to give bond.

—salary of.

The duties of said inspector shall be to inspect and analyze all liquors of the commissioner, as provided in section three of this act, and also all liquors sent to him by the constable of the Commonwealth or any of his deputies, under the seal of the agent from whom the said liquors were obtained, as hereinafter provided, keeping a record of the result of his analysis, and reporting the result of such inspection and analysis to the officer from whom the said liquors were received.

—duties of.

SECT. 26. It shall be the duty of the constable of the Commonwealth, either personally or by deputy, to visit each town and city agent as often as once in every three months, take samples of all liquors kept for sale by the said agent, (allowing the said agent to seal the said samples with the seal of his agency,) and forward the same to the inspector and assayer of liquors, with a certificate setting forth the kinds of liquors sent, from whom they were obtained, and the date when obtained; and upon the receipt of the report of the inspection and analysis of said liquors, if it shall be found that any of the said samples of liquors were adulterated, to immediately proceed in a prosecution against the said offending agent, as provided in the preceding sections of this act. The having adulterated liquors by any of the said agents, shall be considered *prima facie* evidence of the intent to sell the same.

Constable of Commonwealth to visit agent every three months and take samples of liquors for inspection.

All intoxicating liquors, other than cider, malt liquors and wines, containing less than thirty-five per cent. of absolute alcohol, shall be considered adulterated within the meaning of this act.

What liquors deemed adulterated.

SALES, &C., SPECIALLY AUTHORIZED.

SECT. 27. The importer of liquor of foreign production imported under authority of the laws of the United States, may own, possess, keep, or sell, the same, in the original casks or packages in which it was imported, and in quantities not less than the quantities in which the laws of the United States require such liquor to be imported, and if sold by him, the same shall be as pure and unadulterated as when imported.

Foreign liquors imported under laws of U. S. may be sold in original packages.

SECT. 28. Druggists may sell, for medicinal purposes only, pure alcohol to other druggists, apothecaries and physicians,

Pure alcohol may be sold by druggists to physicians, &c.,

for medicinal purposes.

known to be such: *provided*, that they shall keep a book in which they shall enter the date and quantity of every sale, the name and residence of the purchaser, and if exported, the place to which exported, and the name of the consignee: which book shall at all times be open to the inspection of the mayor and aldermen or selectmen. If a druggist or the clerk or agent of a druggist is convicted of an illegal sale, he shall pay a fine of one thousand dollars.

Chemists may keep liquors, &c.

SECT. 29. A chemist, artist or manufacturer, in whose art or trade they may be necessary, may keep at his place of business spirituous liquors for use in such art or trade, but not for sale; and any person may manufacture or sell, or keep for sale, unadulterated wine for sacramental purposes; and any person may manufacture cider, or may sell or keep for sale cider, where the same is not sold, or kept with intent to be sold, at a public bar or to be drank on the premises.

Sale of cider, wine, &c.

UNLAWFUL SALES, &c.—REMEDIES, PUNISHMENTS, &c.

No person to manufacture or sell intoxicating liquor without being authorized, &c.

SECT. 30. No person shall manufacture for sale, or sell by himself, his clerk, servant or agent, directly or indirectly, any spirituous or intoxicating liquor, or any mixed liquor part of which is spirituous or intoxicating, unless he is authorized as provided in this act. Ale, porter, strong beer, lager-bier, and all wines, shall be considered intoxicating liquors within the meaning of this act, as well as distilled spirits; but this enumeration shall not prevent any other pure or mixed liquors from being regarded as intoxicating.

No person to own or keep liquors with intent to sell, &c.

SECT. 31. No person shall own, possess or keep, any spirituous or intoxicating liquor, with intent to sell the same in this Commonwealth, and no owner of such liquor shall permit or suffer any other person to keep the same for the purpose of selling it in this Commonwealth, unless authorized as provided in this act.

Penalties for unlawful sales.

SECT. 32. Whoever, by himself, his clerk, servant or agent, directly or indirectly, or on any pretence or by any device, sells, or in consideration of the purchase of any other property, gives, to another person spirituous or intoxicating liquor, or mixed liquor part of which is spirituous or intoxicating, in violation of the provisions of this act, shall, for one violation, pay ten dollars, and be imprisoned in the house of correction not less than twenty nor more than thirty days; for a second violation, shall pay twenty dollars and be imprisoned in the house of correction not less than thirty nor more than sixty days; and for any subsequent violation, shall pay fifty dollars and be imprisoned in the house of correction not less than three nor more than six months; and if in any case the fine and costs are not paid, the imprisonment shall be extended thirty days. Whoever in the employment or on the premises of another violates any provisions of this section, shall be held equally guilty with the principal, and suffer the same punishment.

SECT. 33. Whoever is a manufacturer of spirituous or intoxicating liquor for sale, or a common seller thereof, in violation of the provisions of this act, shall for one violation, pay fifty dollars and be imprisoned in the house of correction not less than three nor more than six months; for a second violation, shall pay the sum of two hundred dollars and be imprisoned six months in the house of correction; and for any subsequent violation, shall pay the sum of two hundred dollars and be imprisoned twelve months in the house of correction in the county where the offence was committed. Whoever in the employment or on the premises of another violates the provisions of this section, shall be held equally guilty with the principal, and shall suffer the same punishment. Three several sales of spirituous or intoxicating liquors to one or more persons shall be sufficient evidence of a violation of this section, but this shall not prevent proof of the same by other evidence.

Penalty for being manufacturer or common seller.

SECT. 34. The names of all the parties charged with any offence, under either of the two preceding sections, and one or more offences, may be included in the same complaint or indictment, and may be tried at the same time. Whoever is convicted of more than one offence on the same complaint or indictment, or on different indictments, at the same or any other terms of the court, shall be subject to the same punishments as if he had been successively convicted on as many complaints or indictments at different terms of the court as there are offences of which he is convicted; but the whole aggregate term of imprisonment under any one complaint or indictment, or at any one term of the court, for violations of the provisions of either section, shall never exceed one year.

Several parties and offences may be included in same complaint, and several offences may be tried at same time, &c.

Aggregate of imprisonment at one term of court not to exceed one year.

SECT. 35. In all cases under this act, delivery of intoxicating liquor in or from any building or place, other than a private dwelling-house or its dependencies, or in such dwelling-house or dependencies, if part of the same is a tavern, public eating-house, grocery, or other place of common resort, shall be deemed *prima facie* evidence of and punishable as a sale; and a delivery in or from a private dwelling-house with payment or promise of payment either express or implied, on, before or after such delivery, shall be deemed *prima facie* evidence of and punishable as a sale.

Delivery to be *prima facie* evidence of sale.

SECT. 36. Whoever owns, possesses or keeps any spirituous or intoxicating liquor, with intent to sell the same contrary to the provisions of this act, shall be fined ten dollars and imprisoned twenty days in the house of correction, and shall be imprisoned twenty days longer if said fine and costs are not paid. A complaint may be made and prosecuted under this section, whether any liquor has been seized as being owned or kept by the person complained against or not.

Penalty for owning or keeping liquor with intent to sell.

SECT. 37. Whoever, for the purpose of conveying to another person, receives any spirituous or intoxicating liquor which has been sold or is intended for sale in violation of this act, having

—for receiving liquor unlawfully sold, to be conveyed to another person.

reasonable cause to believe that the same has been so sold, or is so intended for sale, shall, on conviction thereof, either in the place where the liquor is received or in any place through which it is carried, or in the place at which it is delivered to the purchaser or to any person for him, pay a fine of twenty dollars.

—on railroad corporations, their servants, &c.

SECT. 38. Whoever, having authority from a railroad corporation to receive goods to be transported by such corporation, receives, for the purpose of having the same transported on such railroad, any spirituous or intoxicating liquor sold or intended for sale in violation of this act, having reasonable cause to believe that the same has been so sold or is so intended for sale, shall be liable to the penalty prescribed in the preceding section; and the corporation shall also be liable to pay a fine of fifty dollars, to be recovered by indictment or complaint in any county in which such liquor has been received or into which it is carried.

—for bringing liquor into the state, with intent to sell, &c.

SECT. 39. Whoever brings into this Commonwealth, or conveys from place to place within the same, any spirituous or intoxicating liquor, with intent to sell the same himself or to have it sold by another, or having reasonable cause to believe that the same is intended to be sold in violation of this act, shall be punished for the first and each subsequent offence in the manner provided in section thirty-two for any person illegally selling spirituous or intoxicating liquor.

—for selling to persons who drink to excess, after notice in writing has been given.

SECT. 40. The husband, wife, parent, child, guardian or employer, of any person who has or may hereafter have the habit of drinking spirituous or intoxicating liquor to excess, may give notice in writing signed by him or her to any person not to deliver spirituous or intoxicating liquor to the person having such habit. If the person so notified at any time within twelve months after such notice delivers any such liquor to the person having such habit, the person giving the notice may in an action of tort recover of the person notified any sum not less than twenty-one nor more than five hundred dollars, as may be assessed by the jury as damages. A married woman may bring such action in her own name, notwithstanding her coverture, and all damages recovered by her shall go to her separate use. In case of the death of either party, the action and right of action given by this section shall survive to or against his executor or administrator.

Persons unlawfully furnishing liquor liable for damages done by intoxicated persons.

SECT. 41. If a person in a state of intoxication commits an assault and battery, or injures any property, whoever furnished him with any part of the spirituous liquor which occasioned his intoxication, if the same was furnished in violation of this act, shall be liable to the same action by the party injured as the person intoxicated would be liable to; and the party injured, or his legal representatives, may bring either a joint action against the person intoxicated and the person who furnished the liquor, or a separate action against either.

SECT. 42. If a person is found in a state of intoxication in a public place, or is found in any place in a state of intoxication committing a breach of the peace, or disturbing others by noise, any sheriff, deputy-sheriff, constable, watchman or police officer shall without a warrant take him into custody, and detain him in some proper place until, in the opinion of such officer, he is so far recovered from his intoxication as to render it proper to carry him before a court of justice. The officer shall then take him before some justice of the peace or police court in the city or town where he has been found, and shall make a complaint against him for the crime of drunkenness.

Intoxicated persons may be arrested without warrant in certain cases.

SECT. 43. If such person then discloses fully the name of the person of whom, and the time, place and manner in which, the liquor producing his intoxication was procured, and all circumstances attending it, the justice or court shall administer to him the oath provided for witnesses, and interrogate him in the presence of the officer; and if it appears to the officer and magistrate that either of the offences specified in sections thirty-two or thirty-three has been committed, the officer shall file his complaint for the commission of such offence, before said justice or court, against the persons who appear to have been guilty thereof, and the person so disclosing shall be named as one of the witnesses. The officer shall thereupon discontinue his prosecution for drunkenness, and the person arrested shall be discharged, and shall not be liable to be prosecuted again for the same offence.

—to be discharged if they disclose name, &c., of whom they procured liquor.

SECT. 44. If two persons, of full age and competent to testify, make complaint under oath or affirmation, before a justice of the peace or police court, that they have reason to believe, and do believe, that any spirituous or intoxicating liquor, described in the complaint, is kept or deposited by a person named in the complaint in a store, shop, warehouse, building, vehicle, steamboat, vessel, or place, and intended for sale contrary to the provisions of this act, such justice or court, upon its appearing that there is probable cause to believe said complaint to be true, shall issue a warrant of search to any sheriff, deputy-sheriff, city marshal, chief of police, deputy chief of police, deputy marshal, or constable, commanding him to search the premises in which it is alleged such liquor is deposited, and to seize such liquor with the vessels in which it is contained, and securely keep the same until final action is had thereon, and return the warrant with his doings thereon as soon as may be to the same or some other justice or police court in the place where such liquor is alleged to be kept or deposited.

Search warrants may be issued upon complaint under oath of two persons of full age.

SECT. 45. No warrant shall issue for the search of a dwelling-house, unless a tavern, store, grocery, eating-room, or place of common resort is kept therein; and no warrant shall issue for the search of a dwelling-house unless one of the complainants makes oath or affirmation that he has reason to believe, and does believe, that such liquor has been sold therein or taken

—not to issue to search dwelling-house, unless, &c.

therefrom for the purpose of being sold by the occupant, or by his consent or permission contrary to law, within one month next before making such complaint, and is then kept therein for sale contrary to law by the person complained against. The complainant shall in his oath or affirmation state the facts and circumstances on which such belief is founded, and such allegations shall be recited in the complaint and warrant.

Place to be searched to be designated in complaint.

SECT. 46. In all cases the complaint shall particularly designate so as to identify the building, structure, and place, to be searched, the liquors to be seized, the person by whom they are owned, kept or possessed, and intended for sale, and shall allege the intent of such person to sell the same contrary to the provisions of this act. The warrant shall be supported by the oath or affirmation of the complainant, and shall allege that probable cause has been shown for the issuing thereof; and the place to be searched, the liquors to be seized, and the person believed to be the owner, possessor, or keeper of such liquors, intending to sell the same contrary to the provisions of this act, shall be set out therein by special designation and with the same particularity as in the complaint; and the offence both in the complaint and warrant shall be fully, plainly, and substantially described, and the complainants shall be summoned to appear as witnesses.

Officer to search premises, seize liquors, &c.

SECT. 47. The officer to whom the warrant is committed shall proceed to search the premises and seize the liquor described in the warrant, with the casks or other vessels in which it is contained, if they are found in or upon said premises, and shall convey the same to some place of security, where he shall keep the liquor and vessels until final action is had thereon.

If liquor and vessels seized do not exceed \$20 in value, written notice to issue to keeper of liquor seized.

SECT. 48. If in the opinion of the justice or court before which the warrant is returned, the value of the liquor seized, with the vessels containing it, does not exceed twenty dollars, a written notice under seal, and signed by the justice or the clerk of said court, shall be issued within twenty-four hours after such seizure, commanding the person complained against as the keeper of the liquor seized and all other persons claiming any interest therein, or in the casks or vessels containing the same, to appear before said justice or court, at a time and place therein named, to answer to said complaint, and show cause, if any they have, why such liquor, with the vessels containing it, should not be forfeited.

Notice, what to contain, how served, &c.

SECT. 49. The notice shall contain a description of the number and kind of vessels, the quantity and kind of liquor seized, as nearly as may be, and shall state when and where they were seized. It shall be served by any sheriff, deputy-sheriff, constable or police officer, upon the person charged with being the keeper thereof, by leaving an attested copy of the same with him personally or at his usual place of abode, if an inhabitant of this state, and by posting up an attested copy on the building in which the liquor was seized, if it was found in any building, otherwise in some public place in the city or town where the

liquor was seized, and by publishing an attested copy at least twice in some newspaper printed in the county where the seizure is made, if there is any such paper. The posting up of the notice, and the serving the same on the party complained of as keeper, and the first publication in the newspaper, shall not be less than fourteen days before the time appointed for the trial.

SECT. 50. If at the time appointed for trial said notice has not been duly served, or other sufficient cause appears, the trial may be postponed to some other day and place, and such further notice issued as shall supply any defect in the previous notice; and time and opportunity for trial and defence shall be given to persons interested.

New notice may issue in certain cases.

SECT. 51. At the time and place designated in the notice, the person complained against, or any person claiming an interest in the liquor and vessels seized, or any part thereof, may appear and make his claim verbally or in writing, and a record of his appearance and claim shall be made, and he shall be admitted as a party on the trial. Whether a claim as aforesaid is made or not, the justice or court shall proceed to try, hear and determine, the allegations of such complaint, and whether said liquor and vessels, or any part thereof, are forfeited. If it appears that the liquor or any part thereof was at the time of making the complaint owned or kept by the person alleged therein, for the purpose of being sold in violation of this act, the court or justice shall render judgment that such and so much of the liquor so seized as was so unlawfully kept, and the vessels in which it is contained, be forfeited to the Commonwealth.

Claimant of liquor may appear. Trial, forfeiture, &c.

SECT. 52. Any liquor so forfeited, which in the opinion of said justice or court is suitable for use for medicinal, chemical or mechanical purposes, shall, by the authority of the written order of the justice or court, be delivered to any agent appointed for the sale of spirituous liquors of the city or town in which the liquors were seized, to be sold by him and the net proceeds paid over to the treasurer of the Commonwealth. If there is no such agent in said city or town, the same shall be delivered to any such agent in the state that the justice or court may order, to be by him sold, and the proceeds paid over in like manner, and the officer to whom such order is directed shall make return of his doings in the premises. Any such liquor which, in the opinion of the justice or court is not suitable for use as aforesaid, shall, by like order, be destroyed in the presence of the justice or court, or in the presence of some person appointed thereby to witness such destruction, and the witness shall join with the officer in attesting the fact upon the back of the order by authority of which it was done.

Certain liquors forfeited to be delivered to agents for sale, and others to be destroyed.

SECT. 53. If it is not proved on the trial that all or part of the liquor seized was kept or deposited for sale contrary to law, the justice or court shall issue a written order to the officer having the same in custody, to return so much thereof as was not proved to be so kept or deposited, with the vessels in which it is

Liquors seized, if not unlawfully kept for sale, to be returned.

contained, to the place as nearly as may be from which it is taken, or to deliver the same to the person entitled to receive it; which order the officer, after executing the same, shall return to the justice or court with his doings indorsed thereon.

Costs in such cases, and executions thereon.

SECT. 54. If no person appears and is admitted as a party as aforesaid, or if judgment is rendered in favor of all the claimants who appear, the cost of the proceedings shall be paid as in other criminal cases. If only one party appearing fails to sustain his claim, he shall pay all the costs except the expense of seizing and keeping the liquor, and an execution shall be issued against him therefor. If judgment is rendered against two or more claimants, of distinct interests in the liquor, the costs shall, according to the discretion of the justice or court, be apportioned among such parties, and executions shall be issued against them severally. If such execution is not forthwith paid, the defendant therein named shall be committed to the jail, and shall not be discharged therefrom until he has paid the same and the costs of commitment, or until he has been imprisoned thirty days.

Persons claiming, &c., to have right of appeal.

—to recognize in sum of \$200.

SECT. 55. The person claiming any such liquors, whose claim is not allowed as aforesaid, and the person complained against, shall have the same right of appeal and to the same court as if he had been convicted of a crime; but before his appeal is allowed he shall recognize to the Commonwealth in the sum of two hundred dollars, with good and sufficient security or securities, to prosecute his appeal at the court appealed to and abide the sentence of the court thereon; and upon such appeal any question of fact shall be tried by a jury. On the judgment of the court after verdict, whether of forfeiture of the whole or any part of the liquor and vessels seized, or otherwise, similar proceedings shall be had as are directed in the four preceding sections.

Proceedings when value of liquor and vessels exceeds \$20.

SECT. 56. If in the opinion of the justice or court before which a warrant is returnable under which any liquor has been seized, the value of the liquor seized with the vessels containing it exceeds twenty dollars, a notice shall be issued and served as directed in sections forty-eight and forty-nine, except that the same shall be made returnable to the term of the superior court to be held in the county next after the expiration of fourteen days from the time of issuing the notice. The court before which the notice is made returnable shall have jurisdiction of the case, and may proceed therein in the manner directed in sections fifty, fifty-one, fifty-two, fifty-three and fifty-four, as nearly as may be, and with a jury, upon any issue of fact presented by the claimant or directed by the court.

Persons illegally selling may be arrested without warrant.

SECT. 57. Any mayor, alderman, selectman, deputy-sheriff, chief of police, deputy chief of police, city marshal, deputy or assistant-marshal, police officer, constable, or watchman, in his city or town, may without a warrant arrest any person whom he finds in the act of illegally selling, transporting, or distributing intoxicating liquors, and seize the liquors, vessels, and implements of sale, in the possession of said persons, and detain them

in some place of safe keeping until warrants can be procured against said person and for the seizure of said liquor, vessels, and implements, under the provisions of this chapter. The several officers aforesaid shall enforce or cause to be enforced the penalties provided in this chapter, against every person guilty of any violation thereof of which they can obtain reasonable proof. If any sheriff, deputy-sheriff, chief of police, deputy-chief of police, constable, or police officer, after being furnished with a written notice of any violation of this act, and the names of the witnesses, for two weeks neglects to institute proceedings thereon, any person who thereafter makes complaint shall be entitled to all fines imposed and collected for said violation.

Officers to enforce penalties.

If officer neglects for two weeks to prosecute, person prosecuting entitled to all fines imposed.

SECT. 58. Every mayor, alderman, selectman, city marshal, deputy-marshal, sheriff, deputy-sheriff, police officer, and constables, who has information that any intoxicating liquors are kept or sold in any tent, shanty, hut, booth, stall, or similar place for selling refreshments, in any public place on or near the grounds of any cattle show, agricultural exhibition, military muster, or public gathering of any kind, shall seize such liquor and the vessels in which it is contained, and arrest the keeper of such place, and take him as soon as may be before some justice of the peace or police court, with the liquor and vessels so found and seized, and make complaint for the arrest and trial of such person and for the seizure and confiscation of such liquors, according to the provisions of this act.

Public officers to arrest persons illegally selling liquor at public gatherings.

SECT. 59. Whoever is convicted of any offence under this act in addition to the punishment herein prescribed, shall be required by the court or magistrate before whom he is convicted, to recognize to the Commonwealth in a sum not less than one thousand nor more than two thousand dollars, that he will not, within one year from the time of the conviction, violate any provision of this act or any law of this Commonwealth relating to the manufacture and sale of intoxicating liquor, and shall stand committed until he enters into such recognizance.

Persons convicted to recognize that they will not sell within one year, &c.

SECT. 60. All cases under this act, whether by action, indictment, or complaint, which come before any court by original entry or appeal, shall take precedence in said court of all other business except those criminal cases in which the parties are actually imprisoned awaiting a trial; and the prosecuting officer shall not enter a *nolle prosequi* or grant a continuance in any such case, before or after a verdict, except where the purposes of justice may require it, to be shown upon a written motion, filed in the case on behalf of the defendant, or a written statement filed by the prosecuting officer, stating the reason for a continuance; and he shall not enter a *nolle prosequi* except with the concurrence of the court. In cases under this act before a justice of the peace or police court, no admission of the defendant except a plea of guilty made in court shall be received on the trial without the consent of the prosecutor.

Cases under this act to take precedence in court.

Nolle pros. not to be entered, nor continuance granted, except upon written motion or statement.

Cases to be disposed of according to the regular course of proceedings in criminal cases.

No case in court for the violation of the provisions of this act, or of sections six, seven, eight or nine of the eighty-seventh chapter of the General Statutes, shall be laid on file or disposed of except by trial, judgment, acquittal or sentence, as the case may be, according to the regular course of proceedings in criminal cases, unless in any case the purposes of justice require other disposition thereof, to be shown upon a written motion setting forth specifically the reasons therefor, and verified by affidavit where facts are relied on; and in such case, the motion shall be allowed only upon the certificate of the presiding magistrate or judge, that he is satisfied that the cause relied on exists, and that the interests of public justice require the allowance thereof, which certificate shall be filed in the case.

It shall be the duty of the judges, by a frequent examination of the dockets of their several courts, to see that the provisions of this section are strictly complied with.

Exceptions.

Nothing in this section shall be construed to affect in any way the course of proceedings where exceptions are pending.

Recognizances to be in suit within sixty days.

SECT. 61. District attorneys shall commence suits upon all recognizances given under this act in their respective districts, within sixty days after default entered of record, or after they have satisfactory evidence of any act which should cause a forfeiture thereof; and no suit on any recognizance shall be continued, unless for good cause satisfactory to the court. But nothing herein contained shall prevent the commencement of such suit after the expiration of said sixty days.

Common nuisances.

SECT. 62. All intoxicating liquors kept for sale, and the implements and vessels actually used in selling and keeping the same, contrary to the provisions of this act, are declared to be common nuisances.

Payment for liquor illegally sold to be without consideration.

SECT. 63. All payments or compensations for spirituous or intoxicating liquors sold in violation of law, whether in money, labor or personal property, shall be held to have been received without consideration, and against law, equity and good conscience. No action of any kind shall be had or maintained in any court for the price of any liquor sold in any other state for the purpose of being brought into this Commonwealth to be here kept or sold in violation of law, under such circumstances that the vendor would have reasonable cause to believe that the purchaser entertained such illegal purpose; and all bills of exchange, promissory notes, and other securities for and evidences of debt whatsoever, given in whole or in part for the price of liquor sold in violation of this act, shall be void against all persons holding the same with notice of such illegal consideration, either direct or implied by law.

Actions for price not maintainable.

Officers executing warrants protected, &c.

SECT. 64. No action shall be had or maintained against any sheriff, deputy-sheriff, chief of police, deputy chief of police or constable, or their assistants, for executing any warrant or order issued under this act by any justice or court competent to try the same; nor shall an action be had or maintained against any

officer for seizing, detaining, or destroying any intoxicating liquor, or the vessels containing it, unless such liquor and vessels were legally kept by the owner thereof. If a sheriff, chief of police or deputy chief of police, marshal, constable or other officer to whom any warrant, process or precept, provided for in this act, is directed, neglects or refuses to serve and execute the same, he shall be fined not less than three hundred dollars and not exceeding one thousand dollars, and it shall be a sufficient cause for removal or dismissal from office. For any loss or damage arising to him, without fault or negligence on his part, in consequence of obedience to any precept, process or warrant aforesaid, duly served, indemnity, if claimed, shall be claimed of the Commonwealth after the loss or damage sustained, and in no other manner.

Penalty for neglecting to serve warrants.

Indemnity, how and when claimed.

SECT. 65. Chapter eighty-six of the General Statutes, chapter one hundred and thirty-six of the acts of the year eighteen hundred and sixty-one, chapter two hundred and twenty-three of the acts of the year eighteen hundred and sixty-five, and chapters one hundred and forty-one, three hundred and eleven, three hundred and eighteen, three hundred and forty-two, and three hundred and forty-four of the acts of the year eighteen hundred and sixty-eight, are hereby repealed: *provided*, that nothing herein contained shall affect any prosecution now pending, or any penalty or forfeiture already incurred.

Repeal.

Proviso.

FORMS OF PROCEEDINGS.

SECT. 66. The following forms may be used in prosecutions under this act, and if substantially followed, shall be deemed sufficient to fully and plainly, substantially and formally, describe the several offences in each of them set forth, and to authorize the lawful doings of the officers acting by virtue of the warrants issued in substantial conformity therewith; but this shall not be so construed as to prohibit the use of other suitable forms.

Forms of proceedings.

[NOTE.—The forms provided under this chapter are printed separately, and are ready for delivery from office of State Police to all officers or other persons entitled to them.]

WHEN TO TAKE EFFECT.

SECT. 67. This act shall take effect on the first day of July next, except so much thereof as relates to the appointment of all officers and agents herein provided for, which shall take effect upon its passage. [*Approved June 19, 1869.*]

When to take effect.

[Chapter 442, Acts of 1869.]

AN ACT in addition to an Act concerning the Manufacture and Sale of Intoxicating Liquors.

SECT. 1. The word "constable," wherever it occurs in chapter four hundred and fifteen of the acts of the current year,

Word "constable" in 1869, 415, defined.

shall be held and construed to include within its meaning the constable of the Commonwealth and his deputies.

When to take effect.

SECT. 2. This act shall take effect on the first day of July in the year eighteen hundred and sixty-nine. [*Approved June 22, 1869.*]

COMMON NUISANCES.

[Chapter 87, General Statutes.]

LIQUOR SHOPS, HOUSES OF ILL FAME, ETC.

Buildings resorted to for prostitution, &c., nuisances.

SECT. 6. All buildings, places or tenements resorted to for prostitution, lewdness or illegal gaming, or used for the illegal keeping or sale of intoxicating liquors, shall be deemed common nuisances.

Penalty for keeping. AMENDED. See Chap. 269, Acts of 1865. AMENDED. See Chap. 280, Acts of 1866, under "Sentence of Criminals." Such use of premises by tenant to avoid lease, &c.

SECT. 7. Whoever keeps or maintains such common nuisance shall be punished by fine not exceeding one thousand dollars, [and when by fine only, not less than two hundred dollars,] or imprisonment in the county jail not exceeding one year.

SECT. 8. If a tenant or occupant, under a lawful title of any building or tenement, uses such premises, or any part thereof, for any of the purposes enumerated in section six, such use shall annul and make void the lease or other title under which he holds, and, without any act of the owner, shall cause the right of possession to revert and vest in such owner, and the owner may, without process of law, make immediate entry upon the premises, or he may avail himself of the remedy provided in chapter one hundred and thirty-seven.

Penalty on landlord for letting, &c., building for such purposes.

SECT. 9. Whoever knowingly lets a building or tenement owned by him, or under his control, for any purpose enumerated in section six, or knowingly permits such building or tenement, or any part thereof, while under his control, to be used for such purpose, or after due notice of any such use, omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can lawfully be done, shall be deemed guilty of aiding in the maintenance of such nuisance, and punished by fine of not less than one hundred nor more than one thousand dollars, or imprisonment in the jail not less than thirty days, nor more than six months.

Booths, &c., used for gaming, &c., near public shows, &c., how removed.

SECT. 10. The mayor and aldermen or selectmen of any place, upon complaint made to them under oath, that the complainant has reason to believe, and does believe, that any booth, shed or other temporary erection, situated within one mile of

any muster-field, cattle-show ground or other place of public gathering, is used and occupied for the sale of spirituous or fermented liquors, or for the purpose of gaming, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same forthwith. If the owner or occupant refuses or neglects so to do, the mayor and aldermen or selectmen may forthwith abate such booth, shed or erection as a nuisance, and pull down or otherwise destroy the same, in any manner they choose, or through the agency of any force, civil or military.

[Chapter 78, Acts of 1863.]

AN ACT giving Jurisdiction to Police Courts in certain cases.

SECT. 1. The several police courts in this Commonwealth shall have concurrent jurisdiction with the superior court of all offences under the sixth and seventh sections of chapter eighty-seven of the General Statutes, and of all complaints under the common law, for the keeping and maintenance of a common, ill-governed and disorderly house.

Concurrent jurisdiction with superior court defined.

SECT. 2. Whenever final jurisdiction is exercised by any police court in such cases, the punishment shall be limited to a fine not exceeding one [two] hundred dollars, and [or] imprisonment not exceeding one year in the jail or house of correction.

Limitation of penalty in case of final jurisdiction. See chap. 269, sect. 2, Acts of 1865. See chap. 281, sect. 1, Acts of 1865.

SECT. 3. This act shall take effect upon its passage. [*Approved March 12, 1863.*]

AMENDED. See chap. 280, Acts of 1866, under "Sentence of Criminals."

[Chapter 269, Acts of 1865.]

AN ACT in relation to certain Penalties under the eighty-seventh Chapter of the General Statutes.

SECT. 1. Whenever in the discretion of the court the offence set forth in the seventh section of the eighty-seventh chapter of the General Statutes is punished by a fine only, such fine shall not be less than two hundred dollars.

Common nuisance, minimum fine.

SECT. 2. The second section of the seventy-eighth chapter of the acts of the year eighteen hundred and sixty-three is hereby so amended that the limit of punishment by fine shall be two hundred dollars, instead of one hundred dollars.

Fine under § 2, 78, '63, increased.

SECT. 3. Nothing in this act contained shall affect any prosecution pending, or any liability or penalty incurred for any offence committed prior to the time this act shall take effect.

Not to affect suit pending.

[*Approved May 16, 1865.*]

[Chapter 281, Acts of 1865.]

AN ACT to amend "An Act giving Jurisdiction to Police Courts in certain cases."

Act of '63, chap. 78, § 2, amended.

SECT. 1. The second section of chapter seventy-eight of the acts of the year one thousand eight hundred and sixty-three is hereby amended, by striking out the word "and," and substituting therefor the word "or."

SECT. 2. This act shall take effect upon its passage. [*Approved May 17, 1865.*]

PRISONERS.

[Chapter 158, General Statutes.]

OF THE RIGHTS OF PERSONS ACCUSED.

Persons arrested to be informed of ground of arrest, &c.

Penalty for false answers, &c.

Officer who arrests, &c., on false pretences, how punished.

Offences to be prosecuted by indictment, except, &c.

Parties accused may have counsel, &c.

SECT. 1. Every person arrested by virtue of process, or taken into custody by an officer in this state, has a right to know, from the officer who arrests or claims to detain him, the true ground on which the arrest is made; and an officer who refuses to answer a question relative to the reason for such arrest, or answers such question untruly, or assigns to the person arrested an untrue reason for the arrest, or neglects on request to exhibit to the person arrested, or any other person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the house of correction not exceeding one year.

SECT. 2. Every officer who arrests or takes into or detains in custody, a person in this state, pretending to have a process when he has none, or pretending to have a different process from that which he has, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the house of correction not exceeding one year.

SECT. 3. No person shall be held to answer in any court for an alleged crime or offence, unless upon indictment by a grand jury, except in the following cases:—

First. When a prosecution by information is expressly authorized by statute;

Second. In proceedings before a police court or justice of the peace;

Third. In proceedings before courts-martial.

SECT. 4. The accused shall at his trial be allowed to be heard by counsel, may defend himself, and shall have a right to

produce witnesses and proofs in his favor, and to meet the witnesses produced against him face to face.

SECT. 5. No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury accepted and recorded by the court.

Persons indicted, how convicted.

SECT. 6. No person shall be held to answer on a second indictment for an offence of which he has been acquitted by a jury upon the facts and merits; but such acquittal may be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or substance of the indictment on which he was acquitted.

Former acquittal, when bar to subsequent prosecution.

SECT. 7. If a person is on his trial acquitted upon the ground of a variance between the indictment and the proof, or upon an exception to the form or substance of the indictment, he may be arraigned again on a new indictment, and tried and convicted for the same offence, notwithstanding such former acquittal.

When no defence.

SECT. 8. No person shall be punished for an offence, unless duly and legally convicted thereof, in a court having competent jurisdiction of the cause and of the person.

No person to be punished until legally convicted.

[Chap. 170, General Statutes.]

SECT. 12. In all cases where the offence charged in a warrant is not punishable by death or imprisonment in the state prison, if the person arrested requests that he may be taken before a magistrate of the county in which the arrest was made, for the purpose of entering into a recognizance without a trial or examination, the officer who made the arrest shall carry him before a magistrate of that county, who may take from the person arrested a recognizance with sufficient sureties for his appearance at the court having cognizance of the offence, and next to be held in the county where it is alleged to have been committed, and the party arrested shall thereupon be liberated.

Prisoners when to be brought before magistrate on arrest, &c.
R. S., 135, § 4.

SECT. 13. The magistrate who so lets the person arrested to bail, shall certify that fact upon the warrant, and deliver the same with the recognizance to the officer, who shall cause the same to be delivered without unnecessary delay to the clerk of the court before which the accused was recognized to appear; and on application of the complainant, the magistrate who issued the warrant, or the district-attorney, shall cause such witnesses as he thinks necessary to be summoned to the same court.

Magistrate taking bail, to return recognizance to court, &c.
R. S. 135, § 5.

SECT. 21. After the testimony to support the prosecution, the witnesses for the prisoner, if he has any, shall be sworn and examined, and he may be assisted by counsel in such examination, and in the cross-examination of the witnesses in support of the prosecution.

Examination on part of prisoner.
R. S. 135, § 13.

OFFENCES AGAINST THE PERSON.

[Chapter 160, General Statutes.]

OF OFFENCES AGAINST THE PERSON.

Murder in first degree.

SECT. 1. Murder committed with deliberately premeditated malice aforethought, or in the commission of, or attempt to commit, any crime punishable with death or imprisonment for life; or committed with extreme atrocity or cruelty, is murder in the first degree.

Second degree.

SECT. 2. Murder not appearing to be in the first degree is murder in the second degree.

Degree to be found by jury. Punishment in first degree.

SECT. 3. The degree of murder shall be found by the jury.

SECT. 4. Whoever is guilty of murder in the first degree shall suffer the punishment of death.

In second degree.

SECT. 5. Whoever is guilty of murder in the second degree shall be punished by imprisonment in the state prison for life.

Forms not changed.

SECT. 6. Nothing herein shall be construed to require any modification of the existing forms of indictment.

Petit treason abolished, &c.

SECT. 7. The distinction between murder and petit treason is abolished, and the last-named offence shall be prosecuted and punished as murder.

Body of murderer may be dissected.

SECT. 8. On every conviction of the crime of murder, the court may, in their discretion, order the body of the convict, after his execution, to be dissected, and the sheriff shall in such case deliver it to a professor of anatomy and surgery, in some college, or public seminary, if requested; otherwise it shall, unless his friends desire it for interment, be delivered to any surgeon attending to receive it, and who will engage for the dissection thereof.

Murder in a duel out of State, &c., where prosecuted.

SECT. 9. Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made within the same, fights a duel without the jurisdiction of the state, and in so doing inflicts a mortal wound upon any person, whereof he afterwards dies within this state, shall be deemed guilty of murder within this state, and may be indicted, tried, and convicted, in the county where the death happens.

Accessory in duel fought out of the State, &c.

SECT. 10. Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made within the same, becomes the second of either party in such duel, and is present as a second when such mortal wound is inflicted, whereof death ensues within this state, shall be deemed to be an accessory before the fact to the crime of murder in this state, and may be indicted, tried, and convicted, in the county where the death happens.

SECT. 11. Any person indicted under either of the two preceding sections, may plead a former conviction or acquittal of the same offence in any other state or country, and such plea, if admitted or established, shall be a bar to all further or other proceedings against him for the same offence within this state.

Former conviction, &c., out of State, may be pleaded in bar.

SECT. 12. Whoever engages in a duel with a deadly weapon, although no homicide ensues, or challenges another to fight such duel, or sends or delivers a written or verbal message purporting or intended to be such challenge, although no duel ensues, shall be punished by imprisonment in the state prison not exceeding twenty years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years; and shall be incapable of holding, or being elected or appointed to, any place of honor, profit, or trust, under the constitution or laws of this state, for the term of twenty years after such conviction.

Engaging in duel; challenging, &c.

SECT. 13. Whoever accept such challenge, or knowingly carries or delivers any such challenge or message, whether a duel ensues or not, and whoever is present at the fighting of a duel with deadly weapons as an aid, second, or surgeon, or advises, encourages, or promotes, such duel, shall be punished by imprisonment in the jail not exceeding one year, or fine not exceeding five hundred dollars; and shall be incapacitated, as mentioned in the preceding section, for the term of five years after such conviction.

Accepting or carrying challenge; and abetting a duel.

SECT. 14. Whoever posts another, or in writing or print uses any reproachful or contemptuous language to or concerning another for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment in the jail not exceeding six months, or by fine not exceeding one hundred dollars.

Posting another, &c.

SECT. 15. Whoever by previous appointment or arrangement meets another person and engages in a fight, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars.

Price fighting.

SECT. 16. Whoever is present at such fight as an aid, second, or surgeon, or advises, encourages, or promotes, such fight, shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the jail not exceeding three years and fine not exceeding one thousand dollars.

Aiding, advising, &c., in such fight.

SECT. 17. Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made therein, leaves the state and engages in a fight with another person, without the limits thereof, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five thousand dollars.

Leaving State to fight.

SECT. 18. Whoever commits manslaughter shall be punished by imprisonment in the state prison not exceeding twenty years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Manslaughter.

SECT. 19. Whoever, with malicious intent to maim or disfigure, cuts out or maims the tongue, puts out or destroys an

Maiming, disfiguring, or aiding therein.

eye, cuts or tears off an ear, cuts, slits, or mutilates, the nose or lip, or cuts off or disables a limb or member, of any other person; and whoever is privy to such intent, or present aiding in the commission of such offence; shall be punished by imprisonment in the state prison not exceeding twenty years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Assault with
intent to mur-
der, maim, &c.

SECT. 20. Whoever assaults another with intent to murder, or to maim or disfigure his person in any of the ways mentioned in the preceding section, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Attempt to
murder, by
poisoning, &c.

SECT. 21. Whoever attempts to commit murder by poisoning, drowning, or strangling, another person, or by any means not constituting the crime of assault with intent to murder, shall be punished by imprisonment in the state prison not exceeding twenty years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Robbery, being
armed, &c.

SECT. 22. Whoever assaults another, and feloniously robs, steals, and takes from his person, money or other property which may be the subject of larceny; such robber being armed with a dangerous weapon, with intent if resisted to kill or maim the person robbed; or being so armed wounds or strikes the person robbed; shall be punished by imprisonment in the state prison for life.

Assault with
intent to rob,
&c., being
armed.

SECT. 23. Whoever, being armed with a dangerous weapon, assaults another with intent to rob or murder, shall be punished by imprisonment in the state prison not exceeding twenty years.

Robbery, not
being armed.

SECT. 24. Whoever, by force and violence, or assault and putting in fear, feloniously robs, steals, and takes, from the person of another, money or other property which may be the subject of larceny, (such robber not being armed with a dangerous weapon,) shall be punished by imprisonment in the state prison for life, or for any term of years.

Assault with
intent to rob,
&c., not being
armed.

SECT. 25. Whoever, not being armed with a dangerous weapon, assaults another with force and violence, and with intent to rob or steal, shall be punished by imprisonment in the state prison not exceeding ten years.

Rape.

SECT. 26. Whoever ravishes and carnally knows a female of the age of ten years or more, by force and against her will, or unlawfully and carnally knows and abuses a female child under the age of ten years, shall be punished by imprisonment in the state prison for life.

Assault with
intent to com-
mit rape.

SECT. 27. Whoever assaults a female, with intent to commit a rape, shall be punished by imprisonment in the state prison for any term of years, or for life, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Attempts to ex-
tort money, &c.,
by threats.

SECT. 28. Whoever, either verbally or by a written or printed communication, maliciously threatens to accuse another

of any crime or offence, or by such communication maliciously threatens an injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will, shall be punished by imprisonment in the state prison not exceeding fifteen years, or in the house of correction not exceeding ten years, or by fine not exceeding five thousand dollars, or by such imprisonment and fine.

SECT. 29. Whoever wilfully or falsely accuses another person of a crime or offence, with intent that the party so accused shall be held to answer any process, or be arrested on any process under the act of congress passed September eighteenth, A. D. eighteen hundred and fifty, entitled "An Act to amend the act respecting fugitives from justice, and persons escaping from the service of their masters," shall be punished by fine of not less than one thousand, nor exceeding three thousand dollars, and by imprisonment in the jail or house of correction not less than one year nor exceeding five years. A sheriff, constable, or other public officer, who makes such false or wilful accusation, with such intent, shall, in addition to the above-named penalty, be forever disqualified from holding any office under the laws or constitution of this state.

False accusation with intent that party shall be held as fugitive slave.

When made by public officer, &c.

SECT. 30. Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this state against his will, or forcibly carries or sends such person out of this state, or forcibly seizes and confines, or inveigles, or kidnaps, another person, with intent either to cause him to be secretly confined or imprisoned in this state against his will, or to cause him to be sent out of this state against his will, or to be sold as a slave, or in any way held to service against his will; and whoever sells, or in any manner transfers, for any term, the service or labor of a negro, mulatto, or other person of color, who has been unlawfully seized, taken, inveigled, or kidnapped, from this state, to any other state, place, or country; shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

Kidnapping, &c., or selling for slave, &c.

SECT. 31. Every offence mentioned in the preceding section may be tried either in the county in which it is committed, or in any county in or to which the person so seized, taken, inveigled, kidnapped, or sold, or whose services are so sold or transferred, is taken, confined, held, carried, or brought; and upon the trial of any such offence, the consent thereto of the person so taken, inveigled, kidnapped, or confined, shall not be a defence, unless it is made satisfactorily to appear to the jury that such consent was not obtained by fraud, nor extorted by duress or threats.

Where to be prosecuted.

SECT. 32. Whoever mingles any poison with food, drink, or medicine, with intent to kill or injure another person, or wilfully poisons any spring, well, or reservoir of water, with such intent,

Poisoning food, medicines, springs, &c.

shall be punished by imprisonment in the state prison for life, or any term of years.

Assaults not
before men-
tioned, how
punished

SECT. 33. Whoever assaults another with intent to commit burglary, robbery, rape, manslaughter, mayhem, or any felony, the punishment of which assault is not herein before prescribed, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Loss of life by
negligence, &c.,
of carriers.

SECT. 34. If the life of any person, being a passenger, is lost by reason of the negligence or carelessness of the proprietor or proprietors of any steam-boat, stage-coach, or of common carriers of passengers, or by the unfitness or gross negligence or carelessness of their servants or agents, such proprietor or proprietors, and common carriers, shall be punished by fine not exceeding five thousand nor less than five hundred dollars, to be recovered by indictment, and paid to the executor or administrator, for the use of the widow and children of the deceased in equal moieties; but, if there are no children, to the use of the widow, and if no widow, to the use of the next of kin.

Negligence,
&c., of persons
having care of
public convey-
ances.

SECT. 35. Whoever, having management or control of or over any steam-boat or other public conveyance used for the common carriage of persons, is guilty of gross carelessness or neglect in, or in relation to, the conduct, management, or control, of such steam-boat or other public conveyance, while being so used for the common carriage of persons, shall be punished by fine not exceeding five thousand dollars, or by imprisonment in the jail not exceeding three years.

Drivers of stage
coaches, &c.,
leaving horses
without charge,
&c.

SECT. 36. If a driver of a stage coach or other vehicle, for the conveyance of passengers for hire, when a passenger is within or upon such coach or vehicle, leaving the horses thereof without some suitable person to take the charge and guidance of them, or without fastening them in a safe and prudent manner, he may be punished by imprisonment in the jail not exceeding two months, or by fine not exceeding fifty dollars.

[Chapter 229, Acts of 1864.]

Loss of life
from negligence
of corporation
or agents, pecu-
niary liability.

SECT. 37. If by reason of the negligence or carelessness of a street railway corporation, or of the unfitness, negligence, or carelessness of its servants or agents, the life of any person, being a passenger, in the exercise of due care, or of any person being in the exercise of due care, and not being a passenger, or in the employment of such corporation, is lost, the corporation shall be punished by a fine not exceeding five thousand dollars, nor less than five hundred dollars, to be recovered by indictment, and paid to the executor or administrator, for the use of the widow and children of the deceased, in equal moieties; but if there are no children, to the use of the widow, or, if no widow, to the use of the next of kin.

SECT. 38. Indictments against a street railway corporation, for loss of life, shall by prosecuted within one year from the time of the injury causing the death. Indictments to be prosecuted within year.

OFFENCES AGAINST PROPERTY.

[Chapter 161, General Statutes.]

OF OFFENCES AGAINST PROPERTY.

SECT. 1. Whoever wilfully and maliciously burns the dwelling-house of another, or any building adjoining such dwelling-house, or wilfully and maliciously sets fire to any building by the burning whereof such dwelling-house is burnt, shall be punished by imprisonment in the state prison for life. Burning dwelling-house, &c.

SECT. 2. Whoever wilfully and maliciously burns in the night time a meeting-house, church, court-house, town-house, college, academy, jail, or other building erected for public use, or a banking-house, warehouse, store, manufactory, or mill, of another, (being, with the property therein contained, of the value of one thousand dollars,) or a barn, stable, shop, or office, of another, within the curtilage of a dwelling-house, or any other building, by the burning whereof any building mentioned in this section is burnt in the night time, shall be punished by imprisonment in the state prison for life. Burning in night, meeting-house, &c., of value of \$1,000; barn, &c., within curtilage, &c.

SECT. 3. Whoever wilfully and maliciously burns in the day-time any building mentioned in the preceding section, the punishment for which if burnt in the night time would be imprisonment in the state prison for life, shall be punished by imprisonment in the state prison not exceeding ten years. Same in day-time.

SECT. 4. Whoever wilfully and maliciously burns a banking-house, warehouse, store, manufactory, mill, barn, stable, shop, outhouse, or other building whatsoever, of another, other than is mentioned in section two, or a bridge, lock, dam, or flue, or a ship or vessel, of another, shall be punished by imprisonment in the state prison not exceeding ten years. Buildings of less value than \$1,000, &c., or bridge, ship, &c.

SECT. 5. Whoever wilfully and maliciously burns or otherwise destroys, or injures a pile or parcel of wood, boards, timber, or other lumber, or any fence, bars, or gate, or a stack of grain, hay, or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing trees, grain, grass, or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not exceeding one year. Wood, fences, corn, grain, trees, soil, &c.

Wife liable for burning property of husband.

SECT. 6. The preceding sections severally extent to a married woman who commits either of the offences therein described, though the property burnt or set fire to belongs partly or wholly to her husband.

Burning property insured to injure the insurers.

SECT. 7. Whoever wilfully burns a building or any goods, wares, merchandise, or other chattels, which are at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burnt or not, shall be punished by imprisonment in the state prison not exceeding twenty years.

Cutting, &c., bell rope, engine, &c., within twenty-four hours of fire.

SECT. 8. Whoever, within twenty-four hours prior to the burning of a building or other property, wilfully and maliciously cuts or removes any bell rope in the vicinity of such building or property, or cuts, injures, or destroys, any engine or hose, or other apparatus belonging to an engine in said vicinity, shall be deemed guilty of the burning as accessory before the fact, and be punished accordingly.

Same, at time of fire, or preventing alarm or extinguishing fire.

SECT. 9. Whoever, during the burning of a building or other property, wilfully and maliciously cuts or removes any bell rope in the vicinity of such building or property, or otherwise prevents an alarm being given; or cuts, injures, or destroys an engine, or hose, or other apparatus belonging to any engine in said vicinity, or otherwise wilfully and maliciously prevents or obstructs the extinguishing of any fire; shall be deemed guilty of the burning as accessory after the fact, and be punished by imprisonment in the state prison not exceeding seven years, or in the jail not exceeding three years, or by fine not exceeding one thousand dollars.

Burglary, being armed, or making an assault.

SECT. 10. Whoever breaks and enters a dwelling-house in the night time, with intent to commit the crime of murder, rape, robbery, larceny, or other felony, or after having entered with such intent, breaks such dwelling-house in the night time, any person being then lawfully therein, and the offender being armed with a dangerous weapon at the time of such breaking or entry, or so arming himself in such house, or making an actual assault on any person being lawfully therein, shall be punished by imprisonment in the state prison for life.

Not being armed, &c.

SECT. 11. Whoever breaks and enters a dwelling-house in the night time with such intent; or having entered with such intent, breaks such dwelling-house in the night time, (the offender not being armed, nor arming himself in such house with a dangerous weapon, nor making an assault upon any person then being lawfully therein,) shall be punished by imprisonment in the state prison not exceeding twenty years.

Breaking in night, building or ship, with intent, &c.

SECT. 12. Whoever breaks and enters in the night time, a building, ship, or vessel, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, shall be punished by imprisonment in the state prison not exceeding twenty years.

SECT. 13. Whoever enters in the night time without breaking, or breaks and enters in the daytime, a building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, the owner or any other person lawfully therein being put in fear, shall be punished by imprisonment in the state prison not exceeding ten years.

Entering in night, without breaking, or breaking, &c., in daytime, &c.

SECT. 14. Whoever enters a dwelling-house in the night time, without breaking, or breaks and enters in the daytime, any building, ship, or vessel, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, (no person lawfully therein being put in fear,) shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars, and imprisonment in the jail not exceeding two years.

Entering dwelling-house in night, or breaking, &c., without putting in fear.

SECT. 15. Whoever steals in a building, ship, or vessel, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars, or by imprisonment in the jail not exceeding two years.

Stealing in building, ship, &c.

SECT. 16. Whoever steals in a building that is on fire, or steals any property removed in consequence of an alarm caused by fire, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not exceeding two years.

At a fire.

SECT. 17. Whoever commits larceny by stealing from the person of another shall be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding two years.

Larceny from the person.

SECT. 18. Whoever commits larceny, by stealing, of the property of another, any money, goods, or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order or certificate, or any book of accounts for or concerning money or goods due, or to become due, or to be delivered, or any deed or writing containing a conveyance of land or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen exceeds the value of one hundred dollars, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding six hundred dollars and imprisonment in the jail not exceeding two years; or if the property stolen does not exceed the value of one hundred dollars, shall be punished by imprisonment in the state prison or jail not exceeding one year, or by fine not exceeding three hundred dollars.

Of property exceeding \$100 in value.

Larceny of property not exceeding \$100 in value.

SECT. 19. Whoever steals, or for any fraudulent purpose, destroys or conceals any will, codicil, or other testamentary instrument, shall, upon conviction thereof, be punished by imprisonment in the house of correction not exceeding two years, or in the state prison not exceeding five years.

Larceny, destruction, &c., of wills, &c.

SECT. 20. In an indictment for an offence under the preceding section, no allegation of value or ownership need be made; and in the trial of such an indictment, no disclosure made by

Allegation of value not required.

any person under section seventeen of chapter ninety-two shall be used in evidence against him.

Larceny of
property of
value of \$5.

SECT. 21. Whoever, upon a complaint before a justice of the peace or police court, is convicted of stealing money or goods, not exceeding the value of five dollars, may be committed to the house of correction or to the house of industry or workhouse within the city or town where the offence was committed, for a term not exceeding six months; or he may instead thereof be sentenced to pay a fine not exceeding twenty dollars, either with or without a condition, that if the same with the costs of prosecution is not paid within a time specified, he shall be so committed for a term designated in the sentence.

Second conviction,
or conviction at same
term of three
larcenies.

SECT. 22. Whoever, having been convicted, upon indictment, either of the crime of larceny or of being accessory to the crime of larceny before the fact, afterwards commits the crime of larceny, or is accessory thereto before the fact, and is convicted thereof upon indictment; and whoever is convicted at the same term of the court, either as principal or accessory before the fact, of three distinct larcenies, shall be deemed a common and notorious thief, and be punished by imprisonment in the state prison not exceeding twenty years, or in the jail not exceeding three years.

Larceny of
paper designed
for bank bills,
&c., with intent
to pass, &c.

SECT. 23. Whoever commits the crime of larceny by stealing any printed piece of paper or blank designed for issue by any incorporated bank or banking company in the United States, as a bank bill, certificate, or promissory note, or printed by means of any engraved plate designed for printing such pieces of paper or blanks, with intent either to utter or pass the same, or to cause or allow the same to be uttered or passed as true, either with or without alteration or addition, and thereby to injure and defraud any person, shall be punished by imprisonment in the state prison for life, or any term of years.

Printers, &c.,
retaining such
paper, &c.,
with intent to
pass, &c.

SECT. 24. Whoever, having been employed to print, or having assisted in printing, any such printed piece of paper or blank, or having been intrusted with the care or custody thereof, retains the same in his possession without the knowledge and consent of the corporation for which the same was printed, with the intent either to utter or pass it, or to cause or allow it to be uttered or passed, as true, either with or without alteration or addition, and thereby to injure or defraud any person, shall be punished by imprisonment in the state prison for life, or any term of years.

Larceny of
things annexed
to the realty.

SECT. 25. Whoever by a trespass, with intent to steal, takes and carries away anything which is parcel of the realty or annexed thereto, the property of another of some value, against his will, shall be guilty of such simple or aggravated larceny as he would be guilty of if such property were personal property.

Accessory to
such larceny.

SECT. 26. Any person may become an accessory to such larceny before or after the fact, or a receiver of the property

stolen, in like manner as if the property stolen were personal, and shall be punished accordingly.

SECT. 27. The same courts and justices shall have jurisdiction of offences under the preceding section, as would have jurisdiction if the property stolen were personal property. Jurisdiction.

SECT. 28. The stealing of such real property may be a larceny from one or more tenants, sole, joint, or in common, in fee, for life, or years, at will or sufferance, mortgagors or mortgagees, in possession of the same, or who may have an action of tort against the offender for trespass upon the property, but not from one having only the use or custody thereof. The larceny may be from a wife in possession, where she is authorized by law to hold such property as if sole, otherwise her occupation may be the possession of the husband. Where such property which was of a person deceased is stolen, it may be a larceny from any one or more heirs, devisees, reversioners, remaindermen, or others, having a right upon such decease to take possession but not having entered as it would be after entry. The larceny may be from a person unknown, when it would be such if the property stolen were personal. Such larceny may be from one or more tenants.

Of property of person deceased.

From person unknown.

SECT. 29. Such larceny cannot be committed by one against whom no action of tort could be maintained for acts like those constituting the larceny, but may be committed by those having only the use or custody. By whom it cannot be committed.

SECT. 30. Whoever, without the consent of the owner and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement and not the subject of larceny at common law, shall be deemed guilty of larceny. Larceny of beasts and birds.

SECT. 31. The officer who arrests a person charged as principal or accessory in any robbery or larceny, shall secure the property alleged to be stolen, annex a schedule thereof to his return, and be answerable for the same; and upon conviction of the offender, the stolen property shall be restored to the owner. Officer making arrest to secure, &c., goods stolen.

SECT. 32. Upon a conviction of burglary, robbery or larceny, the court may order a meet recompense to the prosecutor, and also to the officer who has secured and kept the stolen property, not exceeding their actual expenses with a reasonable allowance for their time and trouble; which shall be paid by the county treasurer, and charged by him to the Commonwealth. Allowance to prosecutor and officer on conviction.

SECT. 33. When a person arrested upon a charge of burglary, robbery or larceny, forfeits his recognizance, or escapes from the custody of the law after being committed to jail for trial, the court before whom the case would have been tried shall have the same authority to order a recompense and allowance to the prosecutor, and to the officer who has secured and kept the property, as provided in the preceding section. When prisoners forfeit recognizances, or escape.

SECT. 34. Whoever makes or mends, or begins to make or mend, or knowingly has in his possession, any engine, machine, tool or implement, adapted and designed for cutting through, forcing or breaking open, any building, room, vault, safe or other Making, holding, using, &c., burglarious instruments.

depository, in order to steal therefrom money or other property, or to commit any other crime, knowing the same to be adapted and designed for the purpose aforesaid, with intent to use or employ or allow the same to be used or employed for such purpose, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding three years.

Embezzlement
of property the
subject of lar-
ceny.

SECT. 35. Whoever embezzles, or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, money, goods or property, delivered to him, which may be the subject of larceny, or any part thereof, shall be deemed guilty of simple larceny.

By persons in
State treasury.

SECT. 36. If a clerk, or other person employed in the treasury of this Commonwealth, commits any fraud or embezzlement therein, he shall be punished by fine not exceeding two thousand dollars, or by imprisonment in the state prison for life, or such term of years as the court shall order.

Embezzlement
by town, city or
county officers.

SECT. 37. If a town, city, or county officer, embezzles or fraudulently converts to his own use, or fraudulently takes or secretes with intent so to do, any effects or property belonging to or in possession of said town, city or county, he shall be deemed guilty of larceny, and be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

By agents,
clerks, &c.

SECT. 38. If an officer, agent, clerk or servant, of any incorporated company, or if a clerk, agent or servant of any private person, or co-partnership, except apprentices and other persons under the age of sixteen years, embezzles, or fraudulently converts to his own use, or takes, or secretes, with intent so to do, without consent of his employer or master, any property of another, which has come to his possession or is under his care by virtue of such employment, he shall be deemed guilty of simple larceny.

By officers, &c.,
of banks.

SECT. 39. If an officer of an incorporated bank, or any person in the employment of such bank, fraudulently converts to his own use, or fraudulently takes and secretes with intent so to do, any bullion, money, note, bill, or other security for money, belonging to and in possession of such bank, or belonging to any person and deposited therein, he shall, whether intrusted with the custody thereof or not, be deemed guilty of larceny in said bank, and be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

Taking by ac-
complice deem-
ed taking by
officer, &c.

SECT. 40. In prosecutions for such offences, the fraudulent taking or receiving by any person or persons of any bullion, money, note, bill, or other security for money, belonging to such bank, by reason of an unlawful confederacy or agreement of him or them with an officer of said bank, or any person in the

employment thereof, with intent to defraud the same, shall be deemed to be a fraudulent taking by such officer or person in the employment of the bank, to his own use, within the meaning of the preceding section; and it shall not be necessary on the trial to identify the particular bullion, money, note, bill, or security for money, so taken or received.

SECT. 41. If a carrier or other person to whom any property which may be the subject of larceny has been delivered to be carried for hire, or if any other person intrusted with such property, embezzles, or fraudulently converts to his own use, or secretes with intent so to do, any such property, either in the mass as the same was delivered, or otherwise, and before delivery thereof at the place at which, or to the person to whom, it was to be delivered, he shall be deemed to be guilty of simple larceny.

Embezzlement, &c., by carriers and others.

SECT. 42. In prosecutions for the offence of embezzling, fraudulently converting to one's own use, or fraudulently taking and secreting with intent so to embezzle or convert, the bullion, money, notes, bank notes, checks, drafts, bills of exchange, obligations, or other securities for money, of any person, bank, incorporated company, or copartnership, by a cashier, or other officer, clerk, agent, or servant, of such person, bank, incorporated company, or copartnership, it shall be sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of money to a certain amount, without specifying any particulars of such embezzlement; and on the trial evidence may be given of any such embezzlement, fraudulent conversion, or taking with such intent, committed within six months next after the time stated in the indictment; and it shall be sufficient to maintain the charge in the indictment, and shall not be deemed a variance, if it is proved, that any bullion, money, notes, bank note, check, draft, bill of exchange, or other security for money, of such person, bank, incorporated company, or copartnership, of whatever amount, was fraudulently embezzled, converted, or taken with such intent, by such cashier, or other officer, clerk, agent, or servant, within said period of six months.

Indictment and evidence.

What will not be a variance.

SECT. 43. Whoever buys, receives, or aids in the concealment of stolen money, goods, or property, knowing the same to have been stolen, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not exceeding two years.

Buying, receiving, &c., stolen goods.

SECT. 44. Upon a first conviction under the preceding section, and when the act of stealing the property was a simple larceny, if the party convicted of buying, receiving, or aiding in the concealing of such stolen property, makes satisfaction to the party injured, to the full value of the property stolen and not restored, he shall not be imprisoned in the state prison.

Effect of restitution of stolen property bought, &c.

Receiver of
stolen goods
tried before
thief is con-
victed.

SECT. 45. In prosecutions for the offence of buying, receiving, or aiding in the concealment of, stolen property known to have been stolen, it shall not be necessary to aver, nor on the trial thereof to prove, that the person who stole the property has been convicted.

Buying, &c.,
of embezzled
goods, &c.

SECT. 46. Whoever buys, receives, or aids in the concealment of, any embezzled property, knowing the same to have been embezzled, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars, or by imprisonment in the jail not exceeding two years.

Second convic-
tion and several
offences.
Common
receiver.

SECT. 47. Whoever is convicted of buying, receiving, or aiding in the concealment of, stolen or embezzled property, knowing the same to have been stolen or embezzled, having been before convicted of the like offence, and whoever is convicted at the same term of the court of three or more distinct acts of buying, receiving, or aiding in the concealment of, money, goods, or property stolen or embezzled as aforesaid, shall be deemed and adjudged to be a common receiver of stolen or embezzled goods, and shall be punished by imprisonment in the state prison not exceeding ten years.

Unlawful tak-
ing of animals,
&c., but not
with intent to
steal, &c.

SECT. 48. Whoever wilfully, mischievously, and without right, takes or uses any boat or vehicle, or takes, drives, rides, or uses, any horse, ass, mule, ox, or any draught animal, the property of another, without the consent of the owner or other person having the legal custody, care, or control, of the same, shall be punished by fine not exceeding three hundred dollars, or by imprisonment in the house of correction for a term not exceeding six months: *provided*, that nothing in this section shall be so construed as to apply to any case where the taking of the property of another is with the intent to steal the same, or, when it is taken under a claim of right, or with the presumed consent of the owner or other person having the legal control, care, or custody, of the same.

Issuing, &c.,
certificates of
stock, bonds,
&c., beyond
amount author-
ized.

SECT. 49. An officer, agent, clerk, or servant, of a corporation, or any other person, who issues, or signs with intent to issue, any certificate of stock in a corporation, or who issues, signs, or indorses, with intent to issue, any bond, note, bill, or other obligation or security, in the name of such corporation, beyond the amount authorized by law, or limited by the legal votes of such corporation or its proper officers, or negotiates, transfers, or disposes of, such certificate, with intent to defraud, shall be punished by imprisonment in the state prison not exceeding ten years, or in the house of correction not exceeding one year.

Fraudulently
issuing or
transferring
certificates of
stock, &c.

SECT. 50. Any officer, agent, clerk, or servant, of a corporation, or any other person, who fraudulently issues or transfers a certificate of the stock of a corporation, to any person not entitled thereto, or fraudulently signs such certificate, in blank or otherwise, with the intent that it shall be so issued or transferred, by himself or any other person, shall be punished by

imprisonment in the state prison not exceeding ten years, or in the house of correction not exceeding one year.

SECT. 51. An officer, agent, clerk, or servant of a corporation, who makes a false entry in the books thereof, with intent to defraud, and any person whose duty it is to make in such books a record or entry of the transfer of stock, or of the issuing or cancelling of certificates thereof, or of the amount of stock issued by such corporation, who omits to make a true record or entry thereof, with intent to defraud, shall be punished by imprisonment in the state prison not exceeding ten years, or in the house of correction not exceeding one year.

Making false entries, &c., in books of corporation.

SECT. 52. On the trial of any person for an offence under the three preceding sections, the books of any corporation to which such person had access or the right of access, shall be admissible in evidence.

Books of corporation evidence.

SECT. 53. Whoever falsely personates or represents another, and in such assumed character receives any property intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed to have committed simple larceny.

Falsely personating another, &c.

SECT. 54. Whoever designedly, by a false pretence, or by a privy or false token, and with intent to defraud, obtains from another person any property, or obtains, with such intent, the signature of any person to a written instrument, the false making whereof would be punishable as forgery, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five hundred dollars and imprisonment in the jail not more than two years; but the provisions of this section shall not apply to any purchase of property by means of a false pretence relating to the purchaser's means or ability to pay, when by the terms of the purchase, payment for the same is not to be made upon or before the delivery of the property purchased, unless such pretence is made in writing, and signed by the party to be charged.

Obtaining property by false pretences or tokens.

SECT. 55. Whoever knowingly and wilfully forges or counterfeits, or causes or procures to be forged or counterfeited, upon any goods, wares, or merchandise, the private labels, stamps, or trade marks, of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares, or merchandise, whatever, shall be punished by imprisonment not exceeding six months, or by fine not exceeding five hundred dollars.

Forging, &c., private labels, trade marks, &c.

SECT. 56. Whoever vends any goods, wares, or merchandise, having thereon a forged or counterfeited stamp, label, or trade mark, of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall be punished by imprisonment not exceeding six months, or by fine not exceeding fifty dollars.

Selling wares having forged stamps, &c.

SECT. 57. Whoever by the game of three card monte, so called, or any other game, device, sleight of hand, pretensions

Obtaining property by tricks at cards, &c.

to fortune telling, trick, or other means whatever, by the use of cards, or other implements or instruments, fraudulently obtains from another person property of any description, shall be punished as in case of larceny of property of like value.

Gross frauds,
&c., at common
law.

SECT. 58. Whoever is convicted of any gross fraud or cheat at common law shall be punished by imprisonment in the state prison not exceeding ten years, or in the jail not exceeding two years, or by fine not exceeding four hundred dollars.

Conveying land
encumbered
without notice.

SECT. 59. Whoever conveys any real estate, knowing that any encumbrance exists thereon, without, before the consideration is paid, informing the grantee or grantees of the existence and nature of such an encumbrance, so far as he has knowledge thereof, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding one thousand dollars.

Selling land
attached with-
out notice.

SECT. 60. Whoever, knowing that his land is attached on mesne process, with intent to defraud sells and conveys it without giving notice of the attachment to the person to whom he sells and conveys it, shall be punished by imprisonment in the state prison not exceeding three years, or in the jail not exceeding one year.

Concealing
mortgaged per-
sonal property,
&c.

SECT. 61. Whoever, with a fraudulent intent to place mortgaged personal property beyond the control of the mortgagee, removes or conceals, or aids or abets in removing or concealing, the same, and any mortgagor of such property who assents to such removal or concealment, shall be punished by fine not exceeding one thousand dollars or by imprisonment in the jail not exceeding one year.

Mortgagor sell-
ing without
consent of
mortgagee.

SECT. 62. If a mortgagor of personal property sell or conveys the same or any part thereof, without the written consent of the mortgagee, and without informing the person to whom he sells or conveys, that the same is mortgaged, he shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding one year.

Hirer, &c., of
personal prop-
erty selling
without con-
sent.

SECT. 63. If a hirer or lessee of personal property sells or conveys the same, or any part thereof, without the written consent of the owner or lessor, and without informing the person to whom the same is sold or conveyed, that it is so hired or leased, he shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding one year.

Sale, &c., of
collateral secu-
rity before debt
due, &c.

SECT. 64. Whoever, holding any collateral security deposited with him for the payment of a debt which may be due him, sells, pledges, loans, or in any way disposes of, the same, before such debt becomes due and payable, and without the authority of the party depositing the same, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or jail not exceeding two years.

Consignees,
&c., fraudulent-
ly depositing or

SECT. 65. If a consignee or factor deposits or pledges any merchandise, bill of lading, certificate, or order for the delivery

of merchandise, consigned or intrusted to him as security for money borrowed, or negotiable instrument received by him, and disposes of or applies the same to his own use in violation of good faith and with intent to defraud the owner thereof; or with the like fraudulent intent, applies or disposes of any money or negotiable instrument raised or acquired by the sale or other disposition of such merchandise, bill of lading, certificate, or order, to his own use; he shall be punished by fine not exceeding five thousand dollars and imprisonment not exceeding five years.

pledging property, &c.

SECT. 66. Whoever wilfully and maliciously breaks down, injures, removes or destroys any monument erected for the purpose of designating the boundaries of a city or town, or of a tract or lot of land, or any tree marked for that purpose, or so breaks down, injures, removes or destroys any mile stone, mile board or guide board, erected upon a highway or other public way, turnpike or railroad, or wilfully or maliciously defaces or alters the inscription on any such stone or board, or wilfully or maliciously mars or defaces any building or sign board, or extinguishes any lamp, or breaks, destroys or removes any lamp or lamp post or railing or posts erected on any bridge, sidewalk, street, highway, court or passage, shall be punished by imprisonment in the jail not exceeding six months, or by fine not exceeding fifty dollars.

Maliciously destroying, &c., monuments, mile stones, guide boards; extinguishing lamps, &c.

SECT. 67. Whoever wilfully and malicious, or wantonly and without cause, destroys, defaces, mars or injures any school-house, church or other building erected or used for the purposes of education or religious instruction, or for the general diffusion of knowledge; or any of the out-buildings, fences, wells or appurtenances of such school-house, church or other building; or any furniture, apparatus or other property belonging to or connected with such school-house, church or other building; shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the jail not exceeding one year.

Wilful injury, &c., to school-house, church, &c., or furniture, &c., and appurtenances thereof.

SECT. 68. Whoever wilfully and maliciously, by the explosion of gunpowder or any other explosive substance, unlawfully destroys or injures any dwelling-house, office, shop or other building, or any ship or vessel, shall be punished by imprisonment in the state prison not exceeding twenty years, or in the jail not exceeding five years, or by fine not exceeding one thousand dollars.

To house, &c., by exploding gunpowder, &c.

SECT. 69. Whoever wilfully and maliciously throws into, against or upon, or puts, places or explodes, or causes to be exploded, in, upon or near any dwelling-house, office, shop, building or vessel, any gunpowder or other explosive substance, or any bomb-shell, torpedo or other instrument filled or loaded with any explosive substance, with intent unlawfully to destroy or injure such dwelling-house, office, shop, building or vessel, or any person or property therein, shall be punished by imprisonment in the state prison not exceeding ten years, or in the jail

Throwing explosive substances into dwellings, &c.

not exceeding five years, or by fine not exceeding five hundred dollars.

Oil of vitriol,
coal-tar, &c.

SECT. 70. Whoever wilfully and maliciously throws into, against or upon any dwelling-house, office, shop or other building, or vessel, or puts or places therein or thereon any oil of vitriol, coal-tar or other noxious or filthy substance, with intent unlawfully to injure, deface or defile such dwelling-house, office, shop, building or vessel, or any property therein, shall be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding three years, or by fine not exceeding three hundred dollars.

Raising water
so as to injure
mill.

SECT. 71. Whoever by erecting or maintaining a dam, either within or without the limits of this state, knowingly causes the water of a river or stream to be raised so as to flow upon or injure a mill lawfully existing in this state, and belonging to any citizen or citizens thereof, without right as against the owner or owners of such mill, shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding six months; but this section shall not apply to cases where the courts of this state have jurisdiction to abate a dam so raised or maintained.

Proviso.

Malicious injury to dams,
reservoirs,
canals, &c.

SECT. 72. Whoever wilfully and maliciously breaks down, injures, removes or destroys any dam, reservoir, canal or trench, or any gate, flume, flash-boards or other appurtenances thereof, or any of the wheels, mill-gear or machinery of a water-mill, or wilfully or wantonly, without color of right, draws off the water contained in a mill-pond, reservoir, canal or trench, or wilfully and maliciously, without color of right, obstructs the water of a mill-pond, reservoir, canal or trench from flowing out of the same, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars, and imprisonment in the jail not exceeding two years.

Wilful injury,
&c., to ice taken
as merchandise.

SECT. 73. Whoever wilfully, maliciously and without right or license cuts, injures, mars or otherwise damages or destroys any ice upon any waters within this state from which ice is or may be taken as an article of merchandise, whereby the taking thereof is hindered, or the value thereof diminished for that purpose, shall be punished by fine not exceeding one hundred dollars.

To bridges,
turnpike gates,
&c.

SECT. 74. Whoever wilfully and maliciously breaks down, injures, removes or destroys any public or toll bridge or turnpike gate, or any lock, culvert or embankment of a canal, or wilfully and maliciously makes any aperture or breach in such embankment, with intent to destroy or injure the same, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not exceeding two years.

Passing, &c.,
toll-bridges,
without paying.

SECT. 75. Whoever, not exempt from paying toll, passes or attempts to pass any toll-bridge lawfully established without

first paying the legal toll, and with intent to avoid paying the same, shall be liable to a fine not exceeding fifty dollars.

SECT. 76. Whoever wilfully casts away, burns, sinks or otherwise destroys a ship or vessel with intent to injure or defraud any owner of such ship or vessel, or the owner of any property laden on board the same, or an insurer of such ship, vessel or property, or of any part thereof, shall be punished by imprisonment in the state prison for life or any term of years.

Wilfully destroying vessels to defraud owner or insurer.

SECT. 77. Whoever lades, equips or fits out, or assists in lading, equipping or fitting out a ship or vessel, with intent that the same shall be wilfully cast away, burnt, sunk or otherwise destroyed, to injure or defraud an owner or insurer of such ship or vessel, or of any property laden on board the same, shall be punished by imprisonment in the state prison not exceeding twenty years, or fine not exceeding five thousand dollars and imprisonment in the jail not exceeding three years.

Fitting out vessels with intent to destroy them, &c.

SECT. 78. If the owner of a ship or vessel, or of property laden or pretended to be laden on board the same, or if any other person concerned in the lading or fitting out of a ship or vessel makes out or exhibits, or causes to be made out or exhibited, a false or fraudulent invoice, bill of lading, bill of parcels or other false estimates of any goods or property laden or pretended to be laden on board such ship or vessel, with intent to injure or defraud an insurer of such ship, vessel or property, or of any part thereof, he shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years.

Making false invoices, &c., of cargo to defraud insurer, &c.

SECT. 79. If a master, other officer or mariner of a ship or vessel makes, or causes to be made, or swears to, any false affidavit or protest, or if an owner or other person concerned in such ship or vessel, or in the goods or property laden on board the same, procures any such false affidavit or protest to be made, or exhibits the same, with intent to injure, deceive or defraud an insurer of such ship or vessel, or of any goods or property laden on board the same, he shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years.

Making or procuring false protest, &c.

SECT. 80. Whoever wilfully and maliciously kills, maims, or disfigures any horses, cattle, or other beasts, of another person, or wilfully and maliciously administers poison to any such beasts, or exposes any poisonous substance, with intent that the same shall be taken or swallowed by them, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year.

Malicious killing, maiming or poisoning cattle.

SECT. 81. Whoever commits a trespass, by cutting down or destroying any timber or wood, standing or growing on the land of another, or by carrying away any kind of timber or

Wilful trespasses by cutting timber, wood, grain, &c.

Penalties of
sects. 81, 82, 83
& 84 AMENDED.
See chap. 321,
Acts of 1868,
following.

wood, cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf, or mould from such land, or any roots, fruit, or plant there being, or by cutting down or carrying away any sedge, grass, hay, or any kind of corn, standing, growing, or before, or on such land, or by carrying away from any wharf or landing-place any goods whatever in which he has no interest or property, without the license of the owner thereof, shall be punished by imprisonment in the jail not exceeding sixty days, or by fine not exceeding fifty dollars.

Destroying
fruit and orna-
mental trees,
&c., injuring
houses, fences,
&c.

SECT. 82. Whoever wilfully and maliciously, or wantonly and without cause, cuts down or destroys, or by girdling, lopping, or otherwise, injures any fruit or other tree, not his own, standing or growing for shade, ornament, or other useful purpose, or maliciously or wantonly breaks any glass in a building not his own, or maliciously breaks down, injures, mars, or defaces any fence belonging to or enclosing lands not his own, or maliciously throws down or opens any gate, bars, or fence, and leaves the same down or open, or maliciously and injuriously severs from the freehold of another any produce thereof, or anything attached thereto, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding one hundred dollars.

Destroying
trees, &c., or
stealing, &c., in
gardens, &c.

SECT. 83. Whoever wilfully and maliciously enters any orchard, nursery, garden, or cranberry meadow, and takes away, mutilates, or destroys any tree, shrub, or vine, or steals, takes, and carries away, any fruit or flower, without the consent of the owner thereof, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the house of correction not exceeding three months.

Wilful tres-
passes by enter-
ing gardens, or-
chards, &c.,
with intent.

SECT. 84. Whoever wilfully commits a trespass, by entering upon the garden, orchard, or other improved land of another, without permission of the owner, and with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit, or vegetables there growing or being, shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding twenty dollars; and if any of the offences mentioned in this or section eighty-one are committed on the Lord's day, or in disguise, or secretly in the night time, the imprisonment shall not be less than five days, nor the fine less than five dollars.

How, when
done on the
Lord's day, or
secretly.

Other malicious
injuries to per-
sonal property.

SECT. 85. Whoever wilfully and maliciously destroys or injures the personal property of another in any manner or by any means not particularly described or mentioned in this chapter, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year: *provided*, that when the value of the property so destroyed or injured is not alleged to exceed the sum of fifteen dollars, the punishment shall be by fine not exceeding fifteen dollars, or imprisonment in the jail not exceeding thirty days.

SECT. 86. Whoever is discovered in the act of wilfully injuring any fruit or forest trees, or committing any kind of malicious mischief on the Lord's day, may be arrested by any sheriff, deputy-sheriff, constable, watchman, police officer, or other person, and lawfully detained by imprisonment in the jail or otherwise, until a complaint can be made against him for the offence for which he was arrested, and he be taken upon a warrant issued upon such complaint; but such detention without warrant shall not continue more than twenty-four hours.

Persons wilfully injuring trees, or committing mischief on the Lord's day, may be arrested, &c.

SECT. 87. Whoever wilfully commits any trespass by killing pigeons on, or frightening them from beds made for the purpose of taking them in nets, by firing guns, or in any other manner, within one hundred rods of the same, except on lands lawfully occupied by himself, shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding twenty dollars; and shall also be liable for the actual damage to the owner or occupant of such beds.

Killing pigeons on, or frightening from, beds.

SECT. 88. Whoever unlawfully enters any house or hut, the property of the Humane Society, and wilfully injures, destroys, removes or carries away any food, fuel, oil, candles, furniture, utensils, or other property belonging to said society, or unlawfully or wilfully enters any boat-house of said society, and carries away, removes, or injures any life-boat, car, or any of the ropes, tackle, oars, or any appurtenance thereof, or wilfully injures or destroys, or unlawfully uses, or commits any trespass upon the property of said society, intended or kept for the purpose of saving or preserving human life, or commit any trespass upon such hut or boat-house, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding ninety days; but the penalties of this section shall not apply to persons for whose use said boats, houses, and other property are intended and kept. Pilots, commissioners of wrecks, sheriffs and their deputies, and constables, shall make complaint against all persons guilty of any offence under this section.

Injury or removal, &c., to property of Humane Society.

SECT. 89. Whoever sets fire to any coal-pit or pile of wood for the purpose of charring the same, on any woodland in either of the towns of New Bedford, Dartmouth, Fall River, Free-town, and Fairhaven, in the county of Bristol, and Middleborough and Rochester, in the county of Plymouth, between the first day of April and the first day of October annually, shall forfeit one hundred dollars for each offence.

Setting fire to coal-pits, on woodland, in New Bedford, &c., between March and October.

SECT. 90. Whoever, between the times aforesaid, sets fire to any brushwood or bushes on any part of such woodland, or any land adjoining thereto, so as to cause the burning thereof, shall forfeit fifty dollars for each offence.

Burning brushwood, &c.

SECT. 91. All forfeitures under the two preceding sections may be recovered, one-half to the use of the town in which the offence is committed, and the other half to the use of whoever sues therefor.

How penalties recovered, and to whose use.

[Chapter 89, Acts of 1862.]

AN ACT for the further Security of Lands from Trespassers.

Penalty for
trespass from
April 1 to
November 1.

Whoever wilfully commits a trespass by entering or passing over the garden, orchard, mowing-land, or other land of another, under tillage, at any time between the first day of April and the first day of November, after being forbidden so to do by the owner or occupant thereof, or by his authorized agent, shall be punished by fine not exceeding ten dollars; and such fine shall be not less than five dollars if the offence be committed on the Lord's day. [*Approved March 25, 1862.*]

[Chapter 160, Acts of 1862.]

AN ACT to punish Malicious Injuries to Real Estate.

Penalties pre-
scribed in sect.
81, chap. 161,
General Stat-
utes, to apply.

Whoever wilfully or maliciously injures, defaces, mars or destroys, either in whole or in part, any dwelling-house or other building, whether upon the inside or outside, not being the owner thereof, and not having the right so to do, by virtue of any contract with the owner thereof, shall be liable to the penalties mentioned in the eighty-first section of the one hundred and sixty-first chapter of the General Statutes. [*Approved April 28, 1862.*]

[Chapter 248, Acts of 1863.]

AN ACT relating to the Punishment of Certain Frauds.

Prosecution
may be made
in county of
offence or
transport.

SECT. 1. The offence described in the fifty-fourth section of chapter one hundred and sixty-one of the General Statutes, may be alleged in the indictment, and may be prosecuted and punished in any county in which the false pretence or the privy or false token was made, written or used, or in or through which any of the property obtained is carried, sent, transported or received by the party charged.

Penalty for ob-
taining goods
with intent to
defraud.

SECT. 2. Whoever, under false color and pretence of carrying on business and dealing in the ordinary course of trade, obtains from any person goods or chattels, with intent to defraud, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not more than two years.

Penalty for
knowingly re-
ceiving goods
falsely obtain-
ed.

SECT. 3. Whoever buys, receives or aids in the concealment of goods or chattels, knowing the same to have been obtained from any person under false color and pretence of carrying on business and dealing in the ordinary course of trade, with intent to defraud, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the jail not exceeding two years. [*Approved April 29, 1863.*]

[Chapter 127, Acts of 1865.]

AN ACT relating to Personal Property, hired, leased, or held as Collateral Security.

SECT. 1. Whoever, with intent to defraud, buys, receives, conceals, or aids in concealing any personal property, hired, leased, or held as collateral security, knowing the same to be hired, leased, or held as aforesaid, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding one year.

Penalty for act with intent to defraud.

SECT. 2. When complaint is made to any magistrate authorized to issue warrants in criminal cases, that personal property hired, leased, or held as collateral security, has been fraudulently concealed, and that the complainant believes it is concealed in any particular house or place, the magistrate, if he is satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such property. [Approved April 1, 1865.]

Warrant for search to issue upon complaint of concealment.

[Chapter 69, Acts of 1867.]

AN ACT for the preservation of Books and other Property belonging to Public Libraries.

Whoever wilfully and maliciously writes upon, injures, defaces, tears or destroys any book, plate, picture, engraving or statue belonging to any law, town, city or other public library, shall be punished by a fine of not less than five dollars nor more than one thousand dollars for every such offence. [Approved March 16, 1867.]

Penalty for wilful injury or defacement.

[Chapter 321, Acts of 1868.]

AN ACT relating to Malicious Trespasses.

SECT. 1. When a conviction is had under sections eighty-one, eighty-two, eighty-three or eighty-four, of chapter one hundred and sixty-one of the General Statutes, the person so convicted shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the house of correction not exceeding six months.

Penalties for malicious trespass.

SECT. 2. Municipal courts, police courts, and trial justices shall have jurisdiction concurrent with the superior court of offences under said sections when the value of the property cut, taken, carried away, injured or destroyed, or the injury occasioned by the trespass is not alleged to exceed the sum of one hundred dollars, and may punish by fine not exceeding one hundred dollars or imprisonment not exceeding six months or both.

Jurisdiction of courts.

Prosecutions
pending, &c.,
not affected.

SECT. 3. This act shall not affect any prosecution pending or any liability or penalty incurred for any offence committed prior to the time this act shall take effect. [*Approved June 8, 1868.*]

[Chapter 120, Acts of 1869.]

AN ACT to prevent Frauds in the sale of Cotton Sewing Thread.

Cotton sewing
thread on
spools, &c., to
be labelled to
show quantity
in length or
weight.

SECT. 1. Every manufacturer of cotton sewing thread, or person engaged in putting up such thread on spools or in packages of one pound weight or less, intended for sale, shall, before the same is offered for sale, affix to or impress upon each spool or several package a label or stamp designating the quantity of thread each spool or package contains, either by giving the length in yards or by giving the weight.

Penalty for not
labelling or la-
belling falsely.

SECT. 2. If any such person shall purposely neglect to affix such label to, or impress such stamp upon each spool or several package of thread, or shall, with intent to deceive, affix to or impress upon, or cause or suffer to be affixed to or impressed upon any spool or package of thread intended for sale, a label or stamp specifying that such spool or package contains a greater number of yards or a greater quantity of thread by five per cent. than such spool or package contains, he shall forfeit the sum of five dollars for each spool or package so without a label or stamp or falsely labeled or stamped that shall be sold or be delivered to any person to be sold; to be recovered, one-half to the use of the state, and one-half to the use of the party who shall sue for the same.

Seller of thread
liable to same
penalty as man-
ufacturer.

SECT. 3. Any merchant, jobber or trader who shall sell or offer for sale cotton sewing thread, on spools or in packages, that he knows or has reason to believe is falsely labeled or stamped as regards length or quantity, shall be liable to the penalty prescribed in the preceding section. [*Approved March 26, 1869.*]

[Chapter 190, Acts of 1869.]

AN ACT concerning the return of False and Fraudulent lists of Property to Assessors of Taxes.

Penalty for
making false
return to as-
sessor of taxes.

Whoever shall deliver or disclose to any assessor or assistant-assessor of taxes, elected or appointed in pursuance of the laws of this Commonwealth, any false or fraudulent list, return or schedule of property, as and for a true list of his estates, real and personal, not exempted from taxation, with intent thereby to avoid the lawful assessment or payment of any tax, or with

intent thereby to defeat or evade the provisions of law in relation to the assessment or payment of taxes, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in jail not exceeding one year. [*Approved April 24, 1869.*]

[Chapter 307, Acts of 1869.]

AN ACT to prevent the Injury or Destruction of Baggage.

Any baggage-master, express agent, stage driver, hackman or other person, whose duty it is to handle, remove or take care of the baggage of passengers, who shall wilfully or recklessly injure or destroy any trunk, valise, box, package or parcel, while loading, transporting, unloading, delivering or storing the same, shall be punished by a fine not exceeding fifty dollars.

Wilful or negligent destruction of baggage. Penalty.

[*Approved May 26, 1869.*]

[Chapter 386, Acts of 1869.]

AN ACT to provide additional Penalties for entering a Dwelling-House in the Night Time or breaking and entering in the Day Time.

SECT. 1. Whoever is convicted of any offence set forth in section fourteen of chapter one hundred and sixty-one of the General Statutes, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five hundred dollars, and imprisonment in the jail not exceeding two years.

Amendment to G. S. 161, § 14.

SECT. 2. This act shall not affect any prosecutions now pending, nor any offence under said section fourteen, committed before this act shall take effect. [*Approved June 12, 1869.*]

Prosecutions pending, &c., not affected.

FORGERY AND OFFENCES AGAINST THE CURRENCY.

[Chapter 162, General Statutes.]

OF FORGERY AND OFFENCES AGAINST THE CURRENCY.

SECT. 1. Whoever falsely makes, alters, forges or counterfeits a public record, or a certificate, return or attestation of any clerk or register of a court, public register, notary public, justice of the peace, town clerk, or any other public officer, in relation to a matter wherein such certificate, return or attestation may

Forgery of records, contracts, &c.

be received as legal proof; or a charter, deed, will, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, or promissory note; or an order, acquittance or discharge, for money or other property; or an acceptance of a bill of exchange, or indorsement or assignment of a bill of exchange or promissory note for the payment of money; or an accountable receipt for money, goods or other property, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison not exceeding ten years, or in the jail not exceeding two years.

Uttering forged records or contracts.

SECT. 2. Whoever utters and publishes, as true, a false, forged or altered record, deed, instrument or other writing, mentioned in the preceding section, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison not exceeding ten years, or in the jail not exceeding two years.

Forging notes of state treasurer, &c.

SECT. 3. Whoever falsely makes, alters, forges, or counterfeits a note, certificate or other bill of credit, issued by the treasurer of this Commonwealth, or by any commissioner or other officer authorized to issue the same for a debt of this Commonwealth, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison for life, or for any term of years.

Bank bills or notes.

SECT. 4. Whoever falsely makes, alters, forges or counterfeits a bank bill or promissory note, payable to the bearer thereof or to the order of any person, issued by an incorporated banking company established in this state, or within the United States, or any foreign province, state or government, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison for life, or for any term of years.

Having in possession ten or more counterfeit bills, with intent, &c.

SECT. 5. Whoever has in his possession at the same time ten or more similar, false, altered, forged or counterfeit notes, bills of credit, bank bills or notes, such as are mentioned in any of the preceding sections, payable to the bearer thereof, or to the order of any person, knowing the same to be false, altered, forged or counterfeit, with intent to utter or pass the same as true, and thereby to injure or defraud any person, shall be punished by imprisonment in the state prison for life, or for any term of years.

Passing counterfeit bills or forged notes.

SECT. 6. Whoever utters or passes, or tenders in payment as true, any such false, altered, forged or counterfeit note, certificate or bill of credit for any debt of this Commonwealth, or any bank bill or promissory note, payable to the bearer thereof or to the order of any person, issued as aforesaid, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year.

SECT. 7. Whoever, having been convicted of the offence mentioned in the preceding section, is again convicted of the like offence committed after the former conviction, and whoever is, at the same term of the court, convicted upon three distinct charges of such offence, shall be deemed a common utterer of counterfeit bills, and he punished by imprisonment in the state prison not exceeding ten years.

Second conviction, and three convictions at same term.

SECT. 8. Whoever brings into this state or has in his possession, a false, forged or counterfeit bill or note, in the similitude of the bills or notes, payable to the bearer thereof or to the order of any person, issued by or for any bank or banking company, established in this state or within the United States, or in any foreign province, state or government, with intent to utter or pass the same, or to render the same current as true, knowing the same to be false, forged or counterfeit, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year.

Having counterfeit bills, with intent, &c.

SECT. 9. Whoever engraves, makes or mends, or begins to engrave, make or mend, any plate, block, press or other tool, instrument or implement, or makes or provides any paper or other material, adapted and designed for the forging or making a false and counterfeit note, certificate or other bill of credit, purporting to be issued by lawful authority for a debt of this Commonwealth, or a false and counterfeit note or bill in the similitude of the notes or bills issued by any bank or banking company established in this state or within the United States, or in any foreign province, state or government, and whoever has in his possession any such plate or block engraved in any part, or any press or other tool, instrument or implement, or any paper or other material, adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used, in forging or making any such false and counterfeit certificates, bills or notes, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

Making or having tools, &c., for counterfeiting, with intent, &c.

SECT. 10. In prosecutions for forging or counterfeiting notes or bills of the banks before mentioned, or for uttering, publishing or tendering in payment, as true, any forged or counterfeit bank bills or notes, or for being possessed thereof with intent to utter and pass the same as true, the testimony of the president and cashier of such banks may be dispensed with, if their place of residence is out of this state, or more than forty miles from the place of trial; and the testimony of any person acquainted with the signature of such president or cashier, or who has knowledge of the difference in the appearance of the true and the counterfeit bills or notes of such banks, may be admitted to prove that such bills or notes are counterfeit.

Testimony of president, &c., of banks, dispensed with, in certain cases.

SECT. 11. In prosecutions for forging or counterfeiting any note, certificate, bill of credit or other security, issued on behalf

Sworn certificates of certain officers made evidence,

of the United States, or on behalf of any state or territory, or for uttering, publishing or tendering in payment, as true, any such forged or counterfeit note, certificate, bill of credit or security, or for being possessed thereof with intent to utter and pass the same as true, the certificate under oath of the secretary of the treasury, or of the treasurer of the United States, or of the secretary or treasurer of any state or territory, on whose behalf such note, certificate, bill of credit, or security, purports to have been issued, shall be admitted as evidence, for the purpose of proving the same to be forged or counterfeit.

Affixing fictitious signatures.

SECT. 12. If a fictitious or pretended signature, purporting to be the signature of an officer or agent of a corporation, is fraudulently affixed to any instrument or writing, purporting to be a note, draft or other evidence of debt issued by such corporation, with intent to pass the same as true, it shall be deemed a forgery, though no such person may ever have been an officer or agent of such corporation, or ever have existed.

Intent to defraud; statement and proof.

SECT. 13. Where an intent to defraud is required to constitute the offence of forgery, or any other offence, it shall be sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded; and on the trial it shall be sufficient, and shall not be deemed at variance, if there appears to be an intent to defraud the United States, or any state, county, city, town or parish, or any body corporate, or any public officer in his official capacity, or any co-partnership or members thereof, or any particular person.

Counterfeiting coin, or having ten counterfeit pieces, &c.

SECT. 14. Whoever counterfeits any gold or silver coin current by law or usage within this state, or has in his possession at the same time ten or more pieces of false money, or coin counterfeited in the similitude of any gold or silver coin current as aforesaid, knowing the same to be false and counterfeit, and with intent to utter or pass the same as true, shall be punished by imprisonment in the state prison for life, or for any term of years.

Having less than ten pieces, with intent, &c.

Uttering counterfeit coin.

SECT. 15. Whoever has in his possession any number of pieces, less than ten, of the counterfeit coin mentioned in the preceding section, knowing the same to be counterfeit, with intent to utter or pass the same as true, or utters, passes, or tenders in payment, as true, any such counterfeit coin, knowing the same to be false and counterfeit, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

Second conviction, and three convictions at same term.

SECT. 16. Whoever having been convicted of either of the offences mentioned in the preceding section, is again convicted of either of the same offences, committed after the former conviction, and whoever is at the same term of the court convicted upon three distinct charges of said offences, shall be deemed a

common utterer of counterfeit coin, and punished by imprisonment in the state prison not exceeding twenty years.

SECT. 17. Whoever casts, stamps, engraves, makes, or mends, or knowingly has in his possession, any mould, pattern, die, puncheon, engine, press or other tool or instrument, adapted and designed for coining or making counterfeit coin, in the similitude of any gold or silver coin current by law or usage in this state, with intent to use or employ the same, or to cause or permit the same to be used or employed in coining or making any such false and counterfeit coin as aforesaid, shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years.

Making, mending or having tools for coining, with intent, &c.

SECT. 18. Whoever issues or passes any note, bill, order or check, other than foreign bills of exchange, the notes or bills of some bank incorporated by the laws of this state, or by the laws of the United States, or of some of the United States, or by the laws of either of the British Provinces in North America, with the intent that the same shall be circulated as currency, shall forfeit fifty dollars for each offence.

Issuing or passing notes as currency, &c., except, &c.

SECT. 19. Whoever issues or passes any note, bill, order or check, other than the notes or bills of a bank incorporated under the authority of this state or some one of the United States, for a sum less than five dollars, or whereon a less sum than five dollars is due at the time of such issuing or passing thereof, with intent that the same shall be circulated as currency, shall forfeit fifty dollars for each offence.

Small notes, &c., as currency, except, &c.

SECT. 20. Whoever receives or puts in circulation as currency, a bank note or bill which is, or a part of which is, for any fractional part of a dollar, shall be punished by fine of twenty-five dollars.

Circulation of fractional bills.

SECT. 21. Whoever fraudulently connects together different parts of several bank notes, or other genuine instruments, in such a manner as to produce one additional note or instrument, with intent to pass all of them as genuine, shall be deemed guilty of forgery in like manner as if each of them had been falsely made or forged.

Fraudulently connecting parts of several bank notes, &c.

SECT. 22. Whoever wilfully and maliciously tears, cuts, or in any manner damages and impairs the usefulness for circulation of any bank bill or note of a bank in this state, shall be punished by fine not exceeding ten dollars for each offence; but the possession or uttering of a bill so injured shall not be evidence against a party charged, unless connected with other circumstances tending to prove that the bill or note was injured by him.

Wilful and malicious injury to bank bills.

SECT. 23. Whoever maliciously gathers up or retains, or maliciously aids in gathering up or retaining, any bills or notes of any bank or banking company, current by law or usage in this state, for the purpose of injuring or impeding the circulation or business of such bank or banking company, or of

Gathering up, &c., bills of bank for purpose of injuring business, &c.

Penalty.

compelling it to do any act out of the usual course of its business, shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the jail not exceeding two years; and in the prosecution of any such offence it shall not be necessary to set out and describe each bill, but it shall be sufficient to aver and prove any amount of the bills of any bank which have been so gathered up or retained.

Having in possession uncurrent and worthless bills, &c.

SECT. 24. Whoever has in his possession at the same time five or more uncurrent bank bills or notes, which are worthless as bank bills or notes, knowing the same to be worthless as aforesaid, or has papers not bank bills or notes, but made in the similitude of bank bills or notes, or papers purporting to be the bills or notes of any bank which has never existed, knowing the character of such papers, with intent to pass, utter or circulate the same, or to procure any other person so to do, for the purpose of injuring or defrauding, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the house of correction not exceeding three years.

Uttering or passing such bills, &c.

SECT. 25. Whoever utters or passes, or tenders in payment as true, any such uncurrent and worthless bank bill or note, or any paper not a bank bill or note, but made in the similitude of a bank bill or note, or any paper purporting to be the bill or note of any bank which has never existed, knowing the same to be worthless and uncurrent, as aforesaid, with intent to injure and defraud, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five hundred dollars and imprisonment in the house of correction not exceeding three years.

Engraving, &c., shop bills, resembling bank bills.

SECT. 26. Whoever engraves, prints, issues, utters or circulates a shop bill or advertisement in similitude, form and appearance like a bank bill, on paper similar to paper used for bank bills, and with vignettes, figures, or decorations used on bank bills, or having the general appearance of a bank bill, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the jail not exceeding ninety days.

Sheriff, &c., to seize counterfeit bills, &c.

SECT. 27. When false, forged, or counterfeit bank bills or notes, or plates, dies, or other tools, instruments or implements used by counterfeiters or designed for the forging or making of false or counterfeit notes, coin, or bills, or worthless and uncurrent bank bills or notes described in sections twenty-four and twenty-five, come to the knowledge of any sheriff, constable, police officer or other officer of justice in this state, such officer shall immediately seize and take possession of and deliver the same into the custody of the court of record having jurisdiction of the offence of counterfeiting in the county, and the court shall, as soon as the ends of justice will permit, cause the same to be destroyed by an officer of the court, who shall make return to the court of his doings in the premises.

SECT. 28. Upon a conviction of any offence mentioned in sections three, four, fourteen, fifteen, seventeen or twenty-five, and also upon forfeiture by persons prosecuted for any such offence of any recognizance for their appearance to answer to the same, the court before which the conviction is had, or where the record of the recognizance may be, may order a meet recompense to the prosecutor and to the officer who has secured and kept the evidence of the offence, not exceeding their actual expenses with a reasonable allowance for their time and trouble, to be paid by the county treasurer, and charged by him to the Commonwealth; but where recognizances are so forfeited, the amount paid in any case shall not exceed the amount received by the Commonwealth thereon.

Remuneration to prosecutors, &c., of forgers, &c.

[Chapter 63, Acts of 1862.]

AN ACT to restrain Printing or Circulating Shop Bills of the similitude of Securities issued by the United States.

Whoever engraves, prints, issues, utters or circulates a shop bill or advertisement in similitude, form and appearance like a treasury note, note, certificate, bill of credit, or other security, issued by or on behalf of the United States, on paper similar to paper used for treasury notes, notes, certificates, bills of credit or other securities issued by or on behalf of the United States, and with vignettes, figures or decorations used on treasury notes, notes, certificates, bills of credit, or other securities issued by or on behalf of the United States, or having the general appearance of treasury notes, notes, certificates, bills of credit, or other securities issued by or on behalf of the United States, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the jail not exceeding ninety days. [Approved March 11, 1862.]

Imitation of certificates of U. S. stock or treasury notes prohibited.

Penalty.

OFFENCES AGAINST PUBLIC JUSTICE.

[Chapter 163, General Statutes.]

OF OFFENCES AGAINST PUBLIC JUSTICE.

SECT. 1. Whoever, being lawfully required to depose the truth in any proceeding in a course of justice, commits perjury, shall be punished, if the perjury is committed on the trial of an indictment for a capital crime, by imprisonment in the state prison for life, or any term of years; and if committed in any other case, by imprisonment in the state prison not exceeding twenty years.

Perjury.

- What shall be deemed. **SECT. 2.** Whoever, being required by law to take an oath or affirmation, wilfully swears or affirms falsely in regard to any matter or thing respecting which such oath or affirmation is required, shall be deemed guilty of perjury.
- Subornation of. **SECT. 3.** Whoever is guilty of subornation of perjury, by procuring another person to commit perjury, shall be punished in the same manner as for perjury.
- Inciting to commit. **SECT. 4.** Whoever endeavors to incite or procure any other person to commit perjury, though no perjury is committed, shall be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding one year.
- On presumption of, by witness, court may commit, &c. **SECT. 5.** When it appears to a court of record that a witness or party who has been legally sworn and examined, or has made an affidavit in any proceeding in a course of justice, has so testified as to induce a reasonable presumption that he is guilty of perjury therein, the court may immediately commit such witness or party, by an order or process for that purpose, or may take a recognizance with sureties for his appearing to answer to an indictment for perjury; and thereupon the witnesses to establish such perjury may, if present, be bound over to the proper court, and notice of the proceedings shall forthwith be given to the district-attorney.
- Papers, &c., may be secured. **SECT. 6.** If any proceeding in a court of justice in which perjury is reasonably presumed as aforesaid, papers, books, or documents have been produced which are deemed necessary to be used on a prosecution for such perjury, the court may by order detain the same from the person producing them so long as may be necessary for their purpose in such prosecution.
- Giving or offering bribes to officers. **SECT. 7.** Whoever corruptly gives, offers or promises to any executive, legislative or judicial officer, after his election or appointment, either before or after he is qualified, or has taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause, or proceeding which may be then pending, or may by law come or be brought before him in his official capacity, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding three thousand dollars and imprisonment in the jail not exceeding one year.
- Acceptance of bribes by officers. **SECT. 8.** Every executive, legislative, or judicial officer who corruptly accepts a gift or gratuity, or a promise to make a gift, or to do an act beneficial to such officer, under an agreement or with an understanding that his vote, opinion or judgment shall be given in any particular manner, or upon a particular side of any question, cause, or proceeding which is or may be by law brought before him in his official capacity, or that, in any capacity, he shall make any particular nomination or appointment, shall forfeit his office, be forever disqualified to hold any public office, trust or appointment under the constitution or laws of this state, and be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years.

SECT. 9. Whoever corrupts, or attempts to corrupt, any master in chancery, auditor, juror, arbitrator, umpire or referee, by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion or influence the decision of such master in chancery, auditor, juror, arbitrator, umpire or referee, in relation to any cause or matter pending in the court or before an inquest, or for the decision of which such arbitrator, umpire, or referee has been chosen or appointed, shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year.

Corrupting jurors, arbitrators, &c.

SECT. 10. If any person summoned as a juror, or chosen or appointed as an arbitrator, umpire or referee, or if any master in chancery or auditor corruptly takes anything to give his verdict, award or report, or corruptly receives any gift or gratuity whatever, from a party to a suit, cause or proceeding, for the trial or decision of which such juror has been summoned, or for the hearing or determination of which such master in chancery, auditor, arbitrator, umpire or referee has been chosen or appointed, he shall be punished by imprisonment in the state prison not exceeding five years, or fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year.

Acceptance of bribes by jurors, arbitrators, &c.

SECT. 11. Whoever conveys into a jail, house of correction, house of reformation, or other like place of confinement, any disguise, instrument, tool, weapon, or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained; or by any means whatever aids or assists such prisoner in his endeavor to escape therefrom, whether such escape is effected or attempted or not; and whoever forcibly rescues any prisoner held in custody upon any conviction or charge of an offence; shall be punished by imprisonment in the state prison not exceeding seven years; or if the person whose escape or rescue was effected or intended was charged with an offence not capital nor punishable by imprisonment in the state prison, then by imprisonment in the jail not exceeding two years, or by fine not exceeding five hundred dollars.

Attempts to aid escapes from prison, and rescuing prisoners.

SECT. 12. Whoever aids or assists a prisoner in escaping, or attempting to escape, from an officer or person who has the lawful custody of such prisoner, shall be punished by imprisonment in the jail not exceeding two years, or by fine not exceeding five hundred dollars.

Aiding in an escape from an officer.

SECT. 13. If a jailer or other officer voluntarily suffers a prisoner in his custody, upon conviction or any criminal charge, to escape, he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to, or would be liable to suffer upon conviction of the crime or offence where-with he stood charged.

Voluntary escape from prison.

SECT. 14. If a jailer or other officer, through negligence suffers a prisoner in his custody upon conviction or any criminal

Negligent escape; and refusing to re-

ceive a prisoner.

charge, to escape, or wilfully refuses to receive into his custody a prisoner lawfully directed to be committed thereto on a criminal charge or conviction, or any lawful process whatever, he shall be punished by imprisonment in the jail not exceeding two years, or by fine not exceeding five hundred dollars.

Refusing to arrest, and suffering escape.

SECT. 15. If an officer authorized to serve process wilfully and corruptly refuses to execute any lawful process to him directed and requiring him to apprehend or confine any person convicted or charged with an offence, or wilfully and corruptly omits or delays to execute such process, whereby such person escapes and goes at large, he shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding five hundred dollars.

To aid officers.

SECT. 16. Whoever, being required in the name of the Commonwealth, by a sheriff, deputy-sheriff, coroner, constable, police officer, or watchman, neglects or refuses to assist him in the execution of his office in a criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in a case of escape or rescue of persons arrested upon civil process, shall be punished by imprisonment in the jail not exceeding one month, or by fine not exceeding fifty dollars.

Refusing to arrest upon order of a justice of the peace.

SECT. 17. Whoever being required by a justice of the peace, upon view of a breach of the peace, or any other offence proper for his cognizance, to apprehend and bring before him the offender, refuses or neglects to obey such justice, shall be punished in the manner provided in the preceding section for refusing assistance to a sheriff; and no person to whom such justice is known or declares himself to be a justice of the peace, shall plead any excuse on pretence of ignorance of his office.

Falsely assuming to be a justice of the peace or officer.

SECT. 18. Whoever falsely assumes or pretends to be a justice of the peace, sheriff, deputy-sheriff, coroner, constable, police officer, or watchman, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding four hundred dollars.

Disguising to resist execution of the law.

SECT. 19. Whoever in any manner disguises himself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder, or interrupt any officer or other person in the legal performance of his duty, or the exercise of his rights under the constitution or laws of this state, whether such intent is effected or not, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding five hundred dollars, and may also be bound to good behavior for the term of one year after the expiration of such imprisonment.

Concealing and compounding offences.

SECT. 20. Whoever, having knowledge of the commission of an offence punishable with death or by imprisonment in the state prison, takes money, or a gratuity or reward, or an engagement therefor, upon an agreement or understanding express

or implied to compound or conceal such offence, or not to prosecute therefor, or not to give evidence thereof, shall, where such offence of which he has knowledge is punishable with death or imprisonment in the state prison for life, be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding one year; and where the offence of which he so had knowledge was punishable in any other manner, he shall be punished by imprisonment in the jail not exceeding two years, or by fine not exceeding five hundred dollars.

SECT. 21. If a sheriff, constable, or other officer authorized to serve legal process, receives from a defendant, or any other person, any money or other valuable thing, as a consideration, reward, or inducement, for omitting or delaying to arrest a defendant, or to carry him before a magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by fine not exceeding three hundred dollars, or by imprisonment in the jail not exceeding three months.

Officers, taking rewards for omitting their duty.

SECT. 22. A recording officer who wilfully and corruptly demands and receives any greater fee for an official duty or service than is allowed by law, shall forfeit fifty dollars for each offence; and any other person who wilfully and corruptly demands and receives for the performance of any official duty or service for which a fee or compensation is allowed and provided by law, a greater fee or compensation than is so allowed and provided, shall forfeit thirty dollars for each offence; which penalties may be recovered by complaint or indictment to the use of the Commonwealth, or by action of tort to the use of any person who sues therefor: *provided*, that the prosecution or action is commenced within one year after the offence is committed.

Extortion by taking illegal fees.

[Chapter 186, Acts of 1860.]

AN ACT concerning the Form of Indictment for Perjury and Subornation of Perjury.

SECT. 1. In every indictment for perjury, or for unlawfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant (if the perjury be alleged to have been committed in a criminal case) or the nature of the controversy in general terms (if the perjury be alleged to have been committed in any civil suit or proceeding) and by what court, or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceed-

Offences to be substantially set forth, &c.

ing either in law or in equity, and without setting forth the commission or authority of the court or person before whom the offence of perjury was committed.

Of indictment
for suborna-
tion, &c.

SECT. 2. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly to take, make, sign, or subscribe, any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury, or other offence, in the manner herein before mentioned, and then to allege that the defendant unlawfully, wilfully, and corruptly, did cause and procure the said person and said offence, in manner and form aforesaid, to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth, or averring any of the matters or things herein before rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Substance of
the offence, &c.

SECT. 3. This act shall take effect from its passage. [*Approved April 4, 1860.*]

[Chapter 231, Acts of 1865.]

AN ACT in relation to Commissions of certain Officers.

Justices and
notaries to be
notified of lim-
its of tenure.

SECT. 1. It shall be the duty of the secretary of the Commonwealth to send a notice, by mail, to every person commissioned as a justice of the peace or notary public, of the time of expiration of his commission, not more than thirty nor less than fourteen days before such expiration.

Penalty for
extra-official
act after notice.

SECT. 2. If any person who has received such notice shall presume to act in any official manner after the expiration of his commission, he shall pay a fine of not less than one hundred dollars nor more than five hundred dollars.

SECT. 3. This act shall take effect upon its passage. [*Approved May 13, 1865.*]

OFFENCES AGAINST THE PUBLIC PEACE.

[Chapter 164, General Statutes.]

OF OFFENCES AGAINST THE PUBLIC PEACE.

Unlawful as-
semblies, how
suppressed.

SECT. 1. If any persons, to the number of twelve or more, being armed with clubs or other dangerous weapons, or if any

persons, to the number of thirty or more, whether armed or not, are unlawfully, riotously, or tumultuously assembled in any city or town, it shall be the duty of the mayor and of each of the aldermen of such city, and of each of the selectmen of such town, and of every justice of the peace living in any such city or town, and also of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as may be with safety, and in the name of the Commonwealth to command all the persons so assembled, immediately and peaceably to disperse; and if such persons do not thereupon immediately and peaceably disperse, it shall be the duty of each of said magistrates and officers to command the assistance of all persons there present, in seizing, arresting, and securing, such persons in custody, so that they may be proceeded with for their offence, according to law.

SECT. 2. If any person present, being commanded by any of the magistrates or officers mentioned in the preceding section to aid or assist in seizing and securing such rioters, or persons so unlawfully assembled, or in suppressing such riot or unlawful assembly, refuses or neglects to obey such command, or, when required by such magistrate or officer to depart from the place, refuses or neglects so to do, he shall be deemed one of the rioters, or persons unlawfully assembled, and may be prosecuted and punished accordingly.

Refusing assistance when required; or to disperse when commanded.

SECT. 3. If any mayor, alderman, selectman, justice of the peace, sheriff, or deputy-sheriff, having notice of any such riotous or tumultuous and unlawful assembly, in the city or town in which he lives, neglects or refuses immediately to proceed to the place of such assembly, or as near thereto as he can with safety, or omits or neglects to exercise the authority with which he is invested by this chapter for suppressing such assembly, and for arresting and securing the offenders, he shall be punished by fine not exceeding three hundred dollars.

Neglect of mayor or other officer to suppress, &c.

SECT. 4. If any persons who are so riotously or unlawfully assembled, and who have been commanded to disperse, as before provided, refuse or neglect to disperse without unnecessary delay, any two of the magistrates or officers before mentioned may require the aid of a sufficient number of persons, in arms or otherwise as may be necessary, and shall proceed in such manner as in their judgment is expedient, forthwith to disperse and suppress such assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

Officers may quell unlawful assemblies by force, &c.

SECT. 5. When any armed force, called out in the manner provided by chapter thirteen, to suppress a tumult or riot, or to disperse any body of men acting together by force and with intent to commit a felony, or to offer violence to persons or property, or with intent by force or violence to resist or oppose the execution of the laws of this state, arrives at the place of such unlawful, riotous or tumultuous assembly, they shall obey

Armed force, if called out, to obey order of governor, judge, &c.

such orders for suppressing the riot or tumult, and for dispersing and arresting all persons who are committing any of said offences, as they have received from the governor, or any judge of a court of record, or the sheriff of the county, and also such orders as they there receive from any two of the magistrates or officers before mentioned.

Officers, &c., to
be held guilt-
less, though
death is caused.

SECT. 6. If, by reason of the efforts made by any two or more of said magistrates or officers, or by their direction, to disperse such assembly, or to seize and secure the persons composing the same, who have refused to disperse, though the number remaining may be less than twelve, any such person, or other person then present, is killed or wounded, the magistrates and officers, and all persons acting by their order, or under their directions, and all persons acting under the two preceding sections, shall be held guiltless and fully justified in law; and if any of said magistrates or officers, or any person acting under or by the direction of any of the officers before mentioned, is killed or wounded, all persons so assembled, and all other persons who, when commanded or required, refused to aid and assist said magistrates or officers, shall be held answerable therefor.

Rioters, &c.,
responsible.

Riotously de-
stroying dwell-
ing-house, &c.

SECT. 7. If any of the persons so unlawfully assembled demolishes, pulls down or destroys, or begins to demolish, pull down or destroy, any dwelling-house or other building, or ship or vessel, he shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding two years, and shall also be answerable to any person injured, to the full amount of the damage, in an action of tort.

Towns, &c., to
pay three-
fourths of value
of property de-
stroyed or in-
jured.

SECT. 8. When property of the value of fifty dollars or more is destroyed, or property is injured to that amount, by any persons to the number of twelve or more, riotously, routously or tumultuously assembled, the city or town within which the property was situated shall be liable to indemnify the owner thereof, to the amount of three-fourths of the value of the property destroyed, or of the amount of such injury thereto, to be recovered in an action of tort: *provided*, that the owner of such property uses all reasonable diligence to prevent its destruction or injury, and to procure the conviction of the offenders.

May recover
from offenders.

SECT. 9. A city or town which pays any sum under the provisions of the preceding section may recover the same against any or all of the persons who destroyed or injured such property.

Carrying slung
shot, &c.

SECT. 10. Whoever when arrested upon a warrant of a magistrate issued against him for an alleged offence against the laws of this state, and whoever when arrested by a sheriff, deputy-sheriff, constable, police officer or watchman while committing a criminal offence against the laws of this state, or a breach or disturbance of the public peace, is armed with, or has

on his person, slung-shot, metallic knuckles, billies or other dangerous weapon, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the jail not exceeding one year.

SECT. 11. Whoever manufactures or causes to be manufactured, or sell or exposes for sale, any instrument or weapon of the kind usually known as slung-shot, or metallic knuckles, shall be punished by fine not less than fifty dollars, or by imprisonment in the jail not exceeding six months.

Manufacturing.
&c., slung-shot,
&c.

SECT. 12. Whoever is concerned in causing or making a bon-fire within ten rods of any house or building shall be punished by fine not exceeding twenty dollars, or imprisonment not exceeding one month.

Making bon-fire
within ten rods
of a building.

SECT. 13. Whoever without reasonable cause, by outcry or the ringing of bells or otherwise, makes or circulates, or causes to be made or circulated, a false alarm of fire, shall be punished by fine not exceeding fifty dollars.

False alarm of
fire.

[Chapter 301, Acts of 1869.]

AN ACT relating to Vehicles and Itinerant Musicians in Cities and Towns.

SECT. 1. The mayor and aldermen of any city, and the selectmen of any town, may make such rules and regulations in relation to the passage of carriages, wagons, carts, trucks, sleds, sleighs or other vehicles, through the streets or public ways of the city as they shall deem necessary for the safety or convenience of those who travel on said streets or ways, on foot or in vehicles, with penalties for violations thereof, not exceeding twenty dollars for one offence.

Cities and
towns may
regulate pas-
sage of vehicles
through streets.

SECT. 2. The mayor and aldermen of any city may adopt rules and orders not inconsistent with the laws of this Commonwealth for the regulation and control of persons who shall, after the passage of this act, frequent the streets and public places in said city, playing on hand-organs or other musical instruments, beating drums or blowing trumpets, with penalties for violations thereof, not exceeding twenty dollars for each offence. [*Approved May 22, 1869.*]

Penalty.

—may make
regulations
concerning
street musi-
cians.

Penalty.

OFFENCES AGAINST THE PUBLIC HEALTH.

[Chapter 166, General Statutes.]

OF OFFENCES AGAINST THE PUBLIC HEALTH.

SECT. 1. Whoever knowingly sells any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink,

Selling corrupt
or unwhole-

some provisions
without notice.

without making the same fully known to the buyer, shall be punished by imprisonment in the jail not exceeding six months, or by fine not exceeding two hundred dollars.

Killing for sale
or selling calves
less than four
weeks old.

SECT. 2. Whoever kills or causes to be killed, for the purpose of sale, any calf less than four weeks old, or knowingly sells, or has in his possession with intent to sell, the meat of any calf killed when less than four weeks old, shall be punished by fine not exceeding two hundred dollars.

Adulterating
food.

SECT. 3. Whoever fraudulently adulterates, for the purpose of sale, bread or any other substance intended for food, with any substance injurious to health, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding three hundred dollars; and the articles so adulterated shall be forfeited, and destroyed under the direction of the court.

Liquor used for
drink with *cocculus indicus*,
&c.

SECT. 4. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with *cocculus indicus*, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the state prison not exceeding three years; and the articles so adulterated shall be forfeited.

Adulteration of
drugs and medi-
cines.

SECT. 5. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicines shall be forfeited, and destroyed under the direction of the court.

Wilfully cor-
rupting springs,
&c., or injuring
aqueduct.

SECT. 6. Whoever wilfully or maliciously defiles, corrupts, or makes impure any spring or other source of water or reservoir, or destroys or injures any pipe, conductor of water or other property pertaining to an aqueduct, or aids or abets in any such trespass, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the jail not exceeding one year.

Persons selling
arsenic, &c., to
keep record,
&c.

SECT. 7. If any apothecary or other person sells any arsenic, strychnine, corrosive sublimate or prussic acid, without the written prescription of a physician, he shall keep a record of the date of such sale, the article, the amount thereof sold, and the person or persons to whom delivered; and for each neglect he shall forfeit a sum not exceeding fifty dollars. Whoever purchases deadly poisons, as aforesaid, and gives a false or fictitious name to the apothecary or other person, shall be punished by fine not exceeding fifty dollars.

Purchasers who
give false name,
&c.

[Chapter 140, Acts of 1863.]

AN ACT in relation to the Sale of Milk.

SECT. 1. Whoever buys or sells milk by any other measures, cans or vessels, than those sealed as provided in the one hundred and fiftieth section of the forty-ninth chapter of the General Statutes, shall for one violation pay twenty dollars, and for a second and each subsequent violation, fifty dollars.

Penalty for using measures not sealed.
REPEALED.
See chap. 204, Acts of 1867.

SECT. 2. Whoever adulterates, by water or otherwise, milk to be sold in this state, or being recorded in the books of the inspector as a dealer in milk, conveys from place to place, or knowingly sells or causes to be sold adulterated or unwholesome milk, shall for one violation pay twenty dollars, for a second violation pay fifty dollars, and for any subsequent violation, be imprisoned in the house of correction not less than thirty nor more than ninety days; and whoever, in the employment of another, knowingly violates any provision of this section, shall be held equally guilty with the principal, and suffer the same penalty or punishment.

Penalty for selling adulterated milk.
REPEALED.
See chap. 150, Acts of 1869.

SECT. 3. It shall be the duty of the inspector to cause the name and place of business of all persons convicted under the preceding section, to be published in two newspapers printed in the town or county where the offence may have been committed.

Employees held responsible.

SECT. 4. So much of section one hundred and fifty-one, of the forty-ninth chapter of the General Statutes, inconsistent herewith, is hereby repealed.

Publication of convictions.

Repeal.

Approved April 6, 1863.

[Chapter 122, Acts of 1864.]

AN ACT in relation to the Sale and Inspection of Milk.

SECT. 1. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of milk, for their respective places, who shall, before entering upon the duties of their offices, be sworn. Each inspector shall give notice of his appointment by publishing the same two weeks in a newspaper published in his city or town, or if no newspaper is published therein, by posting up such notice in two or more public places in such city or town.

Cities and towns to appoint inspectors.

Public notice to be made.

SECT. 2. The inspectors shall keep an office and books for the purpose of recording the names and places of business of all persons engaged in the sale of milk within their limits. They may enter any place where milk is stored or kept for sale, and all carriages used in the conveyance of milk; and whenever they have reason to believe any milk found therein is adulterated, they shall take specimens thereof and cause the same to be analyzed, or otherwise satisfactorily tested, the result of which they shall record and preserve as evidence; and a certificate of such result, sworn to by the analyzer, shall be admissible in evidence

Inspectors shall record names of dealers.

Analysis, in case of suspected adulterations, required.

Compensation
of inspectors.

in all prosecutions under this act. The inspectors shall receive such compensation as the mayor and aldermen or selectmen shall determine.

Measures to be
sealed and
marked.
REPEALED.
See chap. 204,
Acts of 1867.

SECT. 3. All measures, cans or other vessels used in the sale, or buying at wholesale, of milk, shall be annually sealed by the sealer of weights and measures, by wine measure; and all cans so used shall be marked by the sealer with figures showing the quantity which they hold.

Penalties for
neglect to regis-
ter business or
using other
than sealed
measures.

SECT. 4. Whoever neglects to cause his name and place of business to be recorded in the inspectors' books, and his name legibly placed upon all carriages used by him in the conveyance of milk, before engaging in the sale thereof, and whoever sells, or buys at wholesale, milk by any other measures, cans or vessels than those sealed as before provided, shall forfeit twenty dollars for the first offence, and for a second and each subsequent offence fifty dollars. And whoever offers for sale milk produced from cows fed upon the refuse of distilleries, or any substance deleterious to the quality of the milk, or whoever knowingly offers for sale milk produced from sick or diseased cows, shall forfeit twenty-five dollars for the first, and fifty dollars for every subsequent offence. Whoever sells, or keeps, or offers for sale, adulterated milk, or milk to which water or any foreign substance has been added, shall for the first offence be punished by a fine of twenty dollars, and for a second offence by a fine of fifty dollars; and for any subsequent violation he shall be imprisoned in the house of correction not less than thirty nor more than ninety days; and whoever, in the employment of another, knowingly violates any provision of this section, shall be held equally guilty with the principal, and suffer the same penalty.

Sale of milk
from diseased
or distillery fed
cows or of adul-
terated milk,
penalties.

Publication of
convictions for
violation.

SECT. 5. It shall be the duty of the inspector to cause the name and place of business of all persons convicted under the preceding section, to be published in two newspapers printed in the town or county where the offence may have been committed.

Repeal,

SECT. 6. All acts and parts of acts inconsistent herewith are hereby repealed. *Approved March 30, 1864.*

[Chapter 204, Acts of 1867.]

AN ACT to repeal all Laws requiring the Sealing of Milk Cans.

Repeal.

All acts and parts of acts which require the sealing of cans in which milk is transported or sold, are hereby repealed.

Approved May 2, 1869.

[Chapter 150, Acts of 1869.]

AN ACT to prevent the Sale or Exchange of Adulterated Milk.

SECT. 1. Whoever sells or exchanges, or has in his possession with intent to sell or exchange, or offers for sale or exchange, adulterated milk, or milk to which water or any foreign substance has been added, shall, for each offence, be punished by a fine of not less than twenty nor more than one hundred dollars.

Penalty for selling, &c., adulterated milk.

SECT. 2. Whoever adulterates by water or otherwise, milk to be delivered for manufacture into butter or cheese, shall be liable to the penalties provided in the preceding section.

Milk for making butter and cheese.

SECT. 3. It shall be the duty of every inspector of milk to institute complaint, on the information of any person who shall lay before him satisfactory evidence on which to sustain the same.

Inspector to institute complaint.

SECT. 4. Chapter one hundred and ninety-four of the acts of the year eighteen hundred and sixty-five, and chapter two hundred and sixty-three of the acts of the year eighteen hundred and sixty-eight, and all acts and parts of acts inconsistent herewith, are hereby repealed; but such repeal shall not affect any prosecution now pending.

Repeal.

SECT. 5. Each inspector of milk in this Commonwealth is hereby required to cause the provisions of this act to be published in his town, at least three times, by publication in some newspaper printed in said town, or some newspaper in the county in which the town is situated.

Inspector to publish law in newspaper.

Approved April 10, 1869.

[Chapter 420, Acts of 1869.]

AN ACT to establish a State Board of Health.

SECT. 1. The governor, with the advice and consent of the council, shall appoint seven persons, who shall constitute the board of health and vital statistics. The persons so appointed shall hold their offices for seven years: *provided*, that the terms of office of the seven first appointed shall be so arranged that the term of one shall expire each year, and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by the governor, with the consent of the council; but any one may be re-appointed.

Board of health and vital statistics.

Proviso.

SECT. 2. The board shall take cognizance of the interests of health and life among the citizens of this Commonwealth. They shall make sanitary investigations and inquiries in respect to the people, the causes of disease, and especially of epidemics and the sources of mortality and the effects of localities, employments, conditions and circumstances, on the public health; and they shall gather such information in respect to those matters as they may deem proper, for diffusion among the people.

—to make sanitary investigation, &c., and report to legislature.

They shall advise the government in regard to the location of any public institutions. They shall, in the month of January, make report to the legislature of their doings, investigations and discoveries during the year ending December thirty-first, with such suggestions as to legislative action as they may deem necessary.

—to meet once in three months and serve without compensation.

SECT. 3. The board shall meet at the state house once in three months, and as much oftener as they may deem expedient. No member except the secretary shall receive any compensation, but the actual personal expenses of any member while engaged in the duties of the board shall be allowed and paid.

—to examine into and report upon the effect of liquor as a beverage.

SECT. 4. It shall be the duty of the board, and they are hereby instructed, to examine into and report what, in their best judgment, is the effect of the use of intoxicating liquor, as a beverage, upon the industry, prosperity, happiness, health and lives of the citizens of the state. Also, what additional legislation, if any, is necessary in the premises.

Secretary of board, his duties, compensation, &c.

SECT. 5. The board shall elect a secretary, either from their own number or otherwise; but when elected he shall be a member of the board and their executive officer. He shall perform and superintend the work prescribed in this law, and such other duties as the board may require. He shall receive from the treasury, in quarterly payments, an annual salary of twenty-five hundred dollars and his necessary travelling expenses incurred in the performance of official duties, after they have been audited by the board and approved by the governor and council, and all other necessary expenses arising in his office shall be paid out of the treasury in the same manner as those of the different departments of the government.

SECT. 6. This act shall take effect upon its passage.

Approved June 21, 1869.

FELONIES, ACCESSORIES, ABETTORS, ETC.

[Chapter 168, General Statutes.]

OF FELONIES, ACCESSORIES, ABETTORS, AND ATTEMPTS TO COMMIT CRIMES.

Felony.

SECT. 1. Any crime punishable by death or imprisonment in the state prison is a felony; and no other crime shall be so considered.

Indictments, &c., for, not to be quashed, &c.

SECT. 2. It shall not be necessary to allege in any indictment or complaint that the offence charged is a felony, or felonious, or done feloniously; nor shall any indictment or com-

plaint be quashed or deemed invalid by reason of the omission of the words "felony," "felonious," or "feloniously."

SECT. 3. Whoever aids in the commission of a felony, or is accessory thereto before the fact, by counselling, hiring, or otherwise procuring, such felony to be committed, shall be punished in the manner prescribed for the punishment of the principal felon.

Persons accessory before fact punished as principals.

SECT. 4. Whoever counsels, hires, or otherwise procures, a felony to be committed, may be indicted and convicted as an accessory before the fact, either with the principal felon, or after his conviction; or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice; and in the last-mentioned case may be punished in the same manner as if convicted of being an accessory before the fact.

Accessories before fact, when and how tried.

SECT. 5. A person charged with the offence mentioned in the preceding section may be indicted, tried, and punished, in the same court and county where the principal felon might be indicted and tried, although the offence of counselling, hiring, or procuring, the commission of such felony is committed on the high seas, or on land either within or without the limits of this state.

Where to be tried.

SECT. 6. Whoever, not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, to the offender, after the commission of the felony, harbors, conceals, maintains, or assists, the principal felon or accessory before the fact, or gives such offender any other aid, knowing that he has committed a felony, or been accessory thereto before the fact, with intent that he shall avoid or escape detection, arrest, trial, or punishment, shall be deemed an accessory after the fact, and be punished by imprisonment in the state prison not exceeding seven years, or in the jail not exceeding three years, or by fine not exceeding one thousand dollars.

Accessories after fact, who shall be deemed.

SECT. 7. Whoever becomes an accessory to a felony after the fact may be indicted, convicted, and punished, (whether the principal felon has or has not been previously convicted, or is or is not amenable to justice,) by any court having jurisdiction to try the principal felon, and either in the county where such person became an accessory, or in the county where the principal felony was committed.

How, when and where, tried.

SECT. 8. Whoever attempts to commit an offence prohibited by law, and in such attempt does any act towards the commission of such offence, but fails in the perpetration, or is intercepted or prevented in the execution, of the same, where no express provision is made by law for the punishment of such attempt, shall be punished as follows:—

Attempts to commit offences.

First. If the offence attempted to be committed is punishable with death, the person convicted of such attempt shall be

punished by imprisonment in the state prison not exceeding ten years.

Second. If the offence so attempted to be committed is punishable by imprisonment in the state prison for life, or for five years or more, the person convicted of such attempt shall be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding one year.

Third. If the offence attempted to be committed is punishable by imprisonment in the state prison for a term less than five years, or by imprisonment in the jail, or by fine, the offender convicted of such attempt shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding three hundred dollars; but in no case shall the punishment by imprisonment exceed one-half of the greatest punishment which might have been inflicted if the offence attempted had been committed.

OFFENCES AGAINST CHASTITY, MORALITY, AND DECENCY.

[Chapter 165, General Statutes.]

OF OFFENCES AGAINST CHASTITY, MORALITY, AND DECENCY.

Abduction of an unmarried female under sixteen for the purpose of marriage.

SECT. 1. Whoever fraudulently and deceitfully entices or takes away an unmarried female under the age of sixteen years, from her father's house or wherever else she may be found, without the consent of the parent, guardian, or master, if any, under whose care and custody she is living, for the purpose of effecting a clandestine marriage of such female without such consent, shall be punished by imprisonment in the state prison not exceeding one year, or by fine not exceeding one thousand dollars, or by both fine and imprisonment in the jail.

Of unmarried women, &c., for the purpose of prostitution.

SECT. 4. Whoever fraudulently and deceitfully entices or takes away an unmarried woman, of a chaste life and conversation, from her father's house, or wherever else she may be found, for the purpose of prostitution at a house of ill-fame, assignation, or elsewhere, and whoever aids and assists in such abduction for such purpose, shall be punished by imprisonment in the state prison not exceeding three years, or in the common jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both fine and imprisonment in the jail. But no prosecution shall be commenced after two years from the commission of the offence.

Limitation.

Adultery.

SECT. 3. Whoever commits adultery shall be punished by imprisonment in the state prison not exceeding three years, or

in the jail not exceeding two years; or by fine not exceeding five hundred dollars; and when the crime is committed between a married woman and a man who is unmarried, the man shall be deemed guilty of adultery.

SECT. 4. Whoever, having a former husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall (except in the cases mentioned in the following section) be deemed guilty of polygamy, and be punished by imprisonment in the state prison not exceeding five years, or in the jail not exceeding three years, or by fine not exceeding five hundred dollars. Polygamy.

SECT. 5. The provision of the preceding section shall not extend to any person whose husband or wife has been continually remaining beyond sea, or has voluntarily withdrawn from the other, and remained absent for the space of seven years together, the party marrying again not knowing the other to be living within that time, nor to any person legally divorced from the bonds of matrimony, and not the guilty cause of such divorce. Excepted cases.

SECT. 6. If any man and woman, not being married to each other, lewdly and lasciviously associate and cohabit together, or if any man or woman, married or unmarried, is guilty of open and gross lewdness and lascivious behavior, every such person shall be punished by imprisonment in the state prison not exceeding three years, or in the jail not exceeding two years, or by fine not exceeding three hundred dollars. Lewd and lascivious cohabitation, and open and gross lewdness.

SECT. 7. Persons within the degrees of consanguinity within which marriages are prohibited or declared by law to be incestuous and void, who intermarry, or commit adultery or fornication with each other, shall be punished by imprisonment in the state prison not exceeding twenty years, or in the jail not exceeding three years. Incest.

SECT. 8. If a man commits fornication with a single woman, each of them shall be punished by imprisonment in the jail not exceeding three months, or by fine not exceeding thirty dollars. Fornication.

SECT. 9. Whoever, with intent to procure miscarriage of any woman, unlawfully administers to her, or advises or prescribes for her, or causes to be taken by her, any poison, drug, medicine, or other noxious thing, or unlawfully uses any instrument or other means whatever with like intent, or with like intent aids or assists therein, shall, if the woman dies in consequence thereof, be imprisoned in the state prison not exceeding twenty, nor less than five years, and if the woman does not die in consequence thereof, shall be punished by imprisonment in the state prison not exceeding seven years, nor less than one year, and by fine not exceeding two thousand dollars. Unlawful attempts, &c., to procure miscarriage.

SECT. 10. Whoever knowingly advertises, prints, publishes, distributes, or circulates, or knowingly causes to be advertised, printed, published, distributed, or circulated, any pamphlet, printed paper, book, newspaper, notice, advertisement, or refer- Advertising, &c., notices, &c., of means to procure abortion.

ence, containing words or language giving or conveying any notice, hint, or reference, to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop, or office, where, any poison, drug, mixture, preparation, medicine, or noxious thing, or any instrument or means whatever, or any advice, direction, information, or knowledge, may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be punished by imprisonment in the state prison or jail not exceeding three years, or by fine not exceeding one thousand dollars.

Concealment by mother of death of bastard child.

SECT. 11. If a woman conceals the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding one year.

Offence may be inserted in indictment for murder.

SECT. 12. Any woman indicted for the murder of her infant bastard child, may also be charged in the same indictment with the offence described in the preceding section; and if on the trial the jury acquit her of the charge of murder, they may find her guilty of the concealment.

Keeping house of ill-fame.

SECT. 13. Whoever keeps a house of ill-fame, resorted to for the purpose of prostitution or lewdness, shall be punished by imprisonment in the jail not exceeding two years.

Lease of house so kept, void at option of lessor.

SECT. 14. When the lessee of a dwelling-house is convicted of the offence mentioned in the preceding section, the lease or contract for letting the house shall, at the option of the lessor, become void; and the lessor shall have the like remedy to recover the possession as against a tenant holding over after the expiration of his term.

Importing, selling, receiving, &c., obscene books or prints, &c.

SECT. 15.* Whoever imports, prints, publishes, sells, or distributes, any book, pamphlet, ballad, printed paper, or other thing, containing obscene language, or any obscene prints, pictures, figures, or descriptions, manifestly tending to the corruption of the morals of youth; or introduces into any family, school, or place of education, or buys, procures, receives, or has in his possession, any such book, pamphlet, ballad, printed paper, or other thing, either for the purpose of sale, exhibition, loan, or circulation, or with intent to introduce the same into any family, school, or place of education: shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the jail not exceeding two years, and fine not exceeding one thousand dollars.

Police court, &c., may issue search warrant for such books, &c., and cause to be destroyed.

SECT. 16. Any police court or justice of the peace may issue a warrant for the purpose of searching for any obscene books, pamphlets, ballads, printed papers, or other things, mentioned in the preceding section, in the manner provided in chapter one

* Provision for search warrant to search for obscene prints, etc., may be found in chapter 170, General Statutes, section 2, under heading of "Search Warrants."

hundred and seventy; and all such things found by an officer in executing a search warrant, or produced or brought into court, shall be safely kept so long as is necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards shall be destroyed by order of the court before whom the same is brought.

SECT. 17. When a person is convicted under either of the two preceding sections, and sentenced to pay a fine, there shall be paid to the person who informed and prosecuted such offender to conviction, one-half of the amount of the fine actually paid by such convict.

Half of fine to be paid to prosecutor.

SECT. 18. Whoever commits the abominable and detestable crime against nature, either with mankind, or with any beast, shall be punished by imprisonment in the state prison not exceeding twenty years.

Crime against nature.

SECT. 19. Whoever wilfully blasphemes the holy name of God, by denying, cursing, or contumeliously reproaching God, his creation, government, or final judging of the world, or by cursing or contumeliously reproaching Jesus Christ, or the Holy Ghost, or by cursing or contumeliously reproaching the holy word of God, contained in the holy scriptures, or exposing them to contempt and ridicule, shall be punished by imprisonment in the state prison not exceeding two years, or in the jail not exceeding one year, or by fine not exceeding three hundred dollars, and may also be bound to good behavior.

Blasphemy.

SECT. 20. Whoever, having arrived at the age of discretion, profanely curses or swears, shall, on conviction before any justice of the peace or police court, be punished by fine not exceeding five dollars nor less than one dollar; but no prosecution shall be commenced after twenty days from the commission of the offence.

Profane cursing and swearing.

SECT. 21. Whoever wilfully interrupts or disturbs any assembly of people met for the worship of God shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding fifty dollars.

Disturbing religious worship.

SECT. 22. Whoever, during the time of holding any camp or field meeting for religious purposes, and within one mile of the place of holding such meeting, hawks or peddles goods, wares, merchandise, or, without permission from the authorities having charge of such meeting, establishes any tent or booth, for vending provisions or refreshments, or practises or engages in gaming or horse-racing, or exhibits or offers to exhibit, shows or plays, shall forfeit for each offence a sum not exceeding twenty dollars: *provided*, that a person having his regular and usual place of business within such limits, is not hereby required to suspend his business.

Gaming, &c., within a mile of place of field meeting for religious purposes.

SECT. 23. Whoever wilfully interrupts or disturbs any school or other assembly of people met for a lawful purpose, shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding fifty dollars.

Disturbance of schools and public meetings.

- Of funerals.** **SECT. 24.** Whoever wilfully interrupts, or by fast driving or otherwise in any way disturbs, a funeral assembly or procession, shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding fifty dollars.
- Drunkenness.** **SECT. 25.** Whoever is guilty of drunkenness by the voluntary use of intoxicating liquor shall for the first offence be punished by fine not exceeding five dollars, and for any like offence committed after the first conviction, by fine not exceeding ten dollars, or by imprisonment in the house of correction not exceeding three months; but no prosecution shall be commenced after six months from the commission of the offence.
- Second conviction.** **SECT. 26.** Whoever has become liable to imprisonment in the house of correction upon a second conviction for the crime of drunkenness, may be committed to the workhouse, if any, in the town or city where the offence was committed, instead of the house of correction.
- In the city of Boston.** **SECT. 27.** A person convicted of the crime of drunkenness in the city of Boston, may be committed, in case of non-payment of the fine, to the house of industry instead of the jail or house of correction. The term of imprisonment and the manner of pardon and discharge shall in all respects be the same as are provided in cases where such persons are held in prison in the county of Suffolk for non-payment of fine and costs.
- Rogues, vagabonds, &c.** **SECT. 28.** Rogues and vagabonds, idle and dissolute persons who go about begging, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill-fame, gaming houses or tippling shops, may, upon conviction, be committed, for a term not exceeding six months, to the house of correction, or to the house of industry or workhouse within the city or town where the conviction is had, or to the workhouse, if any there is, in the city or town in which the offender has a legal settlement, if such town is within the county.
- May be punished and sentenced conditionally.** **SECT. 29.** When a person is convicted, by a justice of the peace or police court, of any offence mentioned in the preceding section, he may, instead of the punishment therein mentioned, be punished by fine not exceeding twenty dollars, either with or without a condition that if the same with the costs of prosecution is not paid within a time specified, he shall be committed to the house of correction, house of industry, or workhouse, as is provided in the preceding section; which conditional sentence shall be carried into execution according to the provisions of section seven of chapter one hundred and seventy-four.

SECT. 30. The master, keeper, director, or overseer, of a house of industry or workhouse to which any person is committed under the two preceding sections, shall receive all persons so committed, set them to work if they are able, and employ and govern them in the manner required by law and prescribed by the rules and orders established for that purpose; and the city or town in which such house is situated may recover the balance of the expense of the support of any such person over and above the amount of his labor, from the party thus sentenced, or from any kindred, town, or city, liable by law for his support, if he is a pauper, in like manner as if he had been committed to the house of correction for the same offence.

Master of house of industry, &c., to receive persons committed, &c.

SECT. 31. If any person convicted under the provisions of section twenty-eight appeals from the sentence, the commission of any like offence by him before judgment on the appeal, shall be deemed a breach of the condition of the recognizance, if any was taken upon allowing the appeal.

Party committing offences under section twenty-eight after appeal.

SECT. 32. When a person is brought before a magistrate upon a charge of any offence mentioned in section twenty-eight, such magistrate, or the court before which the cause may be carried by appeal, may in any stage of the proceedings direct the respondent or appellant to be discharged, upon his entering into a recognizance with sufficient sureties, in such sum as the magistrate or court directs, for his good behavior for a term not less than six months nor exceeding two years, and paying the costs of prosecution or such part thereof as the magistrate or court shall direct.

Respondent may be discharged on recognizance, paying costs.

SECT. 33. A person found in a street, highway, or other public place, in the night time, committing any of the offences or disorders before mentioned, may be apprehended by any sheriff, deputy-sheriff, constable, or watchman, or by any other person by the order of any magistrate or either of said officers, without a written warrant, and kept in custody in a convenient place, not more than twenty-four hours, Sundays excepted; at or before the expiration of which time, he shall be brought before a justice of the peace or police court, and proceeded against in the manner directed in the preceding section, or discharged, as such magistrate shall determine.

Disorderly persons arrested in night time.

SECT. 34. If a person discharged under the provisions of section seventeen of chapter one hundred and seventy-eight,* is afterwards convicted of any offence mentioned in section twenty-eight, committed after the former conviction, either in the same or a different county, he may be sentenced by the magistrate or court before whom the second conviction is had, to hard labor in the house of correction, house of industry, or workhouse, for a term not exceeding one year.

Conviction of certain offenders after discharge on former conviction.

SECT. 35. When a person is convicted as a common night-walker, and it is alleged in the complaint, and proved at the trial, that the defendant has been previously twice convicted of

Night-walking, third conviction.

* Provides that overseers or directors of house of correction, etc., may discharge certain persons confined who have reformed or are willing to return to an orderly life.

the same offence, such person may be sentenced to the house of correction, house of industry, or workhouse, if any such is established in the town or city, for a term not exceeding five years.

Sheriff, &c.,
taking a dead
body.

SECT. 36. If a sheriff, deputy-sheriff, coroner, or constable takes the body of any deceased person on mesne process or execution, he shall be punished by fine not exceeding five hundred dollars, or imprisonment in the jail not exceeding six months.

Violation of
seppulture.

SECT. 37. Whoever, not being authorized by the board of health, overseers of the poor, directors of a workhouse, selectmen, or mayor and aldermen of any city or town, by the board of directors for public institutions, or overseers of the poor of the city of Boston, wilfully digs up, disinters, removes, or conveys away any human body or the remains thereof, or knowingly aids in such disinterment, removal or carrying away, and whoever is accessory thereto, either before or after the fact, shall be punished by imprisonment in the state prison not exceeding one year, or in the jail not exceeding two years, or by fine not exceeding two thousand dollars.

Buying or hav-
ing dead body
for the purpose
of sale, &c.

SECT. 38. Whoever buys, sells or has in his possession for the purpose of buying or selling or trafficking in the dead body of any human being, shall be punished by fine not less than fifty nor exceeding five hundred dollars, or by imprisonment in the jail not less than three months, nor exceeding three years.

Injuring or de-
facing tombs,
memorials of
the dead, &c.

SECT. 39. Whoever wilfully destroys, mutilates, defaces or removes any tomb, monument, gravestone, or other structure or thing, placed or designed for a memorial of the dead, or any fence, railing, curb or other thing intended for the protection or ornament of any tomb, monument, gravestone, or other structure before mentioned, or of any enclosure for the burial of the dead, or wilfully destroys, mutilates, removes, cuts, breaks or injures any tree, shrub or plant placed or being within any such enclosure, or wantonly or maliciously disturbs the contents of a tomb or grave, shall be punished by fine not exceeding five hundred dollars nor less than ten dollars, or by imprisonment in the jail not exceeding one year.

Making roads,
canals, &c.,
through burial
grounds.

SECT. 40. Whoever lays out, opens or makes a highway or town way, or constructs a railroad, turnpike or canal, or any other thing in the nature of a public easement, over, through, in, or upon any part of such enclosure, being the property of a city, town, parish, religious society, or of private proprietors, used or appropriated for the burial of the dead, unless an authority for that purpose is specially granted by law, or unless the consent of such city, town, parish, religious society or proprietors respectively is first obtained, shall be punished by fine not exceeding two thousand dollars, or by imprisonment in the jail not exceeding one year.

Cruelty to ani-
mals.

SECT. 41. Whoever cruelly beats or torments any horse, ox or other animal, whether belonging to himself or another, shall

be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding one hundred dollars.

REPEALED.
Chapter 212
Acts of 1868.

NOTE. — Chapter 189, Acts of 1862, amends section 28 of above chapter, providing how certain reformed convicts may be discharged. Chapter 258, Acts 1864, provides that those convicted of drunkenness and being common drunkards, in Boston, and sentenced to imprisonment, shall be sent to House of Industry in Boston.

[Chap. 168, Acts of 1862.]

AN ACT concerning Offences against Chastity, Morality and Decency.

SECT. 1. Whoever imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper, or other thing containing obscene, indecent or impure language, or any obscene, indecent or impure prints, pictures, figures or descriptions, manifestly tending to the corruption of the morals of youth; or introduces into any family, school or place of education; or buys, procures, receives, or has in his possession any such book, pamphlet, ballad, printed paper or other thing, either for the purpose of sale, exhibition, loan or circulation, or with intent to introduce the same into any family, school or place of education, shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the jail not exceeding two years, and fine not exceeding one thousand dollars, nor less than one hundred dollars.

Penalty for importing, printing, or circulating impure book, print or figure.

SECT. 2. Any police court or justice of the peace may issue a warrant for the purpose of searching for any obscene, indecent or impure books, pamphlets, ballads, printed papers, or other things mentioned in the preceding section, in the manner provided in chapter one hundred and seventy of the General Statutes; and all such things found by an officer in executing a search warrant, or produced or brought into court, shall be safely kept so long as is necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards, shall be destroyed by order of the court before whom the same is brought.

Warrants for search, police court or justice may issue.

SECT. 3. When a person is convicted under either of the two preceding sections and sentenced to pay a fine, there shall be paid to the person who informed and prosecuted such offender to conviction, one-half of the fine actually paid by such offender.

Articles found to be destroyed after use as evidence.

Informers entitled to one-half of fine paid.

SECT. 4. The second section of the one hundred and seventieth chapter of the General Statutes is hereby so far amended that all the provisions relating to search for and seizure of books, pamphlets, ballads, printed papers or other things containing obscene prints, pictures, figures or descriptions, manifestly tending to the corruption of the morals of youth, shall also apply to the search for and seizure of the type, forms, press, wood-cuts and all the material and the mechanical apparatus used and em-

General Statutes ch. 170, sect. 2, amended, extending provisions for search and seizure.

ployed in the printing and publishing of the books, pamphlets, ballads, printed papers or other things mentioned in such section; and to all books, pamphlets, ballads, printed papers or other things containing indecent or impure language, or indecent or impure pictures, figures or descriptions, manifestly tending to the corruption of the morals of youth, and the type, forms, press, wood-cuts and all the material and the mechanical apparatus used and employed in the printing and publishing of such books, pamphlets, ballads, printed papers, or other things containing indecent or impure language or indecent or impure prints, pictures or descriptions.

Articles and material seized and adjudged forfeit, to be sold or destroyed.

SECT. 5. After the seizure of any type, forms, press, wood-cuts and the material and the mechanical apparatus, as provided in the preceding section, application shall be made to the court competent to try the offence, in the commission of which the said type, forms, press, wood-cuts, material or mechanical apparatus, or any part thereof, may be alleged to have been used or in any way employed, for a decree of condemnation of the same; and if upon the hearing of said application it shall be found and adjudged that the same or any part thereof has been used for the unlawful purpose alleged, the same shall be adjudged forfeit, and the sheriff shall sell the same or so much thereof as the court shall order, any pay the proceeds of such sale to the use of the county, and the remainder thereof shall be burned or otherwise destroyed under direction of the court or magistrate. The claimant shall be allowed to appear in the proceeding, upon any such application. Any of said articles not found to have been unlawfully used shall be delivered to the lawful owner of the same. [*Approved April 29, 1862.*]

Claimant may appear in proceeding.

BILLIARD TABLES AND BOWLING ALLEYS.

[Chapter 88, General Statutes.]

BILLIARD TABLES AND BOWLING ALLEYS.

Selectmen, &c., may grant licenses to keep billiard tables, &c., for hire, &c.

SECT. 69. The mayor and aldermen or selectmen of any city or town may grant a license to any person to keep a billiard table or bowling alley for hire, gain, or reward, upon such terms and conditions as they may deem proper, to be used for amusement merely, but not for the purpose of gaming for money or other property. Such license may be revoked at the pleasure of the authority granting it.

Penalty for keeping tables, &c., without license.

SECT. 70. Whoever, without such license, keeps or suffers to be kept in a house, building, yard or dependency thereof, by him actually occupied or owned, a table for the purpose of play-

ing at billiards, or a bowling alley for the purpose of playing at bowls, for hire, gain or reward, or for hire, gain or reward suffers any person to resort to the same for such purpose, shall forfeit for every such offence a sum not exceeding one hundred dollars.

SECT. 71. The keeper of a billiard room or table or bowling alley, who admits a minor thereto without the written consent of his parent or guardian, [or who suffers any person to play at the same after six o'clock in the afternoon on Saturday, or after ten o'clock in the afternoon of any other day,] shall forfeit ten dollars for the first and twenty dollars for each subsequent offence.

For admitting minors, to, &c. Words in brackets REPEALED. Chapter 237 acts of 1866.

SECT. 72. Any marshal or his deputy, sheriff or his deputy, constable, police officer or watchman may at any time enter into a billiard room, bowling alley, or other room connected therewith, for the purpose of enforcing any law of the state; and whoever obstructs or hinders the entrance of such officer shall be punished by fine not less than five nor more than twenty dollars.

Officers may enter billiard rooms, &c., to enforce laws.

SECT. 73. The provisions of section thirty-two shall apply to the erection, occupancy or use of buildings for bowling alleys in any city or town.

Penalty for erecting, &c., bowling alley.

[Chapter 237, Acts of 1866.]

AN ACT concerning Billiard Rooms and Bowling Alleys.

SECT. 1. So much of the seventy-first section of chapter eighty-eight of the General Statutes as relates to the hours of closing billiard and bowling rooms is hereby repealed: *provided*, that nothing herein contained shall abridge the powers of boards of aldermen and selectmen in granting licenses.

SECT. 2. This act shall take effect upon its passage. [*Approved May 15, 1866.*]

EXHIBITING FIGHTING BIRDS AND ANIMALS.

[Chapter 83, General Statutes.]

EXHIBITING FIGHTING BIRDS AND ANIMALS.

SECT. 79. Whoever establishes or promotes an exhibition of the fighting of birds or animals, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the house of correction not exceeding six months. Whoever is present at or aids in or contributes to such an exhibition shall be punished by fine not exceeding ten dollars.

Penalty for exhibiting fighting birds &c.

[Chapter 435, Acts of 1869.]

AN ACT to suppress Exhibitions of the Fighting of Birds and Animals.

Persons present at exhibition of fighting of birds or animals may be arrested without warrant.

SECT. 1. Any officer authorized to serve criminal process, may enter any place, building or tenement where there is an exhibition of the fighting of birds or animals, or where preparations are being made for such an exhibition, and without a warrant, arrest all persons there present, and take possession of the birds and animals engaged in fighting, and of all birds and animals there found and intended to be used or engaged in fighting; such persons shall be kept in custody in jail or other convenient place not more than twenty-four hours, Sundays and legal holidays excepted; at or before the expiration of which time such persons shall be brought before a justice of the peace, police or municipal court, and proceeded against according to law.

Birds or animals to be forfeited and sold.

SECT. 2. After the seizure of any birds or animals, as provided in the preceding section, application shall be made to a trial justice, police or municipal court for a decree of forfeiture of the same; and if upon the hearing of such application it shall be found and adjudged that the same at the time of said seizure were engaged in fighting at an exhibition thereof, or were owned, possessed or kept by any person with the intent that the same shall be so engaged, they shall be adjudged forfeit, and any officer authorized to serve criminal process shall sell the same in such manner as the court or justice shall order, and pay the proceeds of such sale to the use of the county. Should it be found and adjudged that such birds or animals are of no use or value, the same shall be let at large or otherwise disposed of as the court or justice may direct. The claimant shall be allowed to appear in the proceeding upon any such application. Any of such birds or animals not adjudged forfeit shall be delivered to the owner thereof.

Claimant aggrieved may appeal within 24 hours.

SECT. 3. Any claimant aggrieved by any decree of such court or justice, may, within twenty-four hours after the entry of such decree, and before execution thereof, appeal therefrom to the superior court then next to be held in the county.

Expenses in care of birds, &c., may be paid.

SECT. 4. The necessary expenses incurred in the care and disposing of such birds or animals may be allowed and paid in the same manner that costs in criminal prosecutions are paid.

Penalty for training birds or animals.

SECT. 5. Whoever owns, possesses, keeps or trains any bird or animal, with the intent that such bird or animal shall be engaged in an exhibition of fighting, shall be punished by fine not exceeding fifty dollars.

Penalty for being present at exhibition.

SECT. 6. Whoever is present at any place, building or tenement where preparations are being made for an exhibition of the fighting of birds or animals, with intent to be present at such exhibition, or is present at such exhibition, shall be punished by fine not exceeding ten dollars. [Approved June 22, 1869.]

SENTENCE OF CRIMINALS.

[Chapter 280, Acts of 1866.]

AN ACT in regard to the Sentence of Criminals.

SECT. 1. When it is provided by law that an offender shall be punished by a fine and imprisonment in the jail, or by fine and imprisonment in the house of correction, such offender may, at the discretion of the court, be sentenced to be punished by such imprisonment without the fine, or by such fine without the imprisonment, in all cases where the offender shall prove or show to the satisfaction of the court that he has not before been convicted of a similar offence.

Punishment optional where offender proves he has not before been convicted of similar offence.

SECT. 2. The supreme judicial court, or superior court, holden in any county in the Commonwealth, may commit any person under sentence to the house of correction in any county in the Commonwealth, in the same manner as such person might be committed in the county where the court is so holden. And the master of the house of correction where such person shall be so ordered to be committed, shall receive and detain such person in the same manner as if committed by the court sitting in the county where said house of correction is situated. And there shall be paid to the county in which said house of correction is situated, by the county from which such person is sentenced, for the support of such person, such sum as shall be agreed upon by the county commissioners of said counties; and in case such commissioners shall not be able to agree upon the amount to be paid, representation of the facts may be made to the superior court sitting in either of said counties, and the amount to be paid shall be determined by said court.

Courts may commit to house of correction in any county of the state.

County from which prisoner is sentenced, to pay support to county in which he is confined.

SECT. 3. Whoever is convicted of any offence set forth in the eighty-seventh chapter of the General Statutes, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and imprisoned in the house of correction not less than three nor more than twelve months, except as is provided in the first section of this act.

AMENDMENT to 87th chapter of the General Statutes.

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 5. This act shall take effect upon its passage. [*Approved May 29, 1866.*]

[Chapter 260, Acts of 1866.]

AN ACT in relation to Evidence in Criminal Prosecutions.

In the trial of all indictments, complaints and other proceedings against persons charged with the commission of crimes or

Person charged with crime may be a

witness in his own behalf.

offences, the person so charged shall, at his own request, but not otherwise, be deemed a competent witness, nor shall the neglect or refusal to testify create any presumption against the defendant. [*Approved May 26, 1866.*]

SEARCH WARRANTS.

[Chapter 170, General Statutes.]

SEARCH WARRANTS.

Search warrants for property stolen, &c.

SECT. 1. When complaint is made on oath to any magistrate authorized to issue warrants in criminal cases, that personal property has been stolen, embezzled, or obtained by false tokens or pretences, and that the complainant believes that it is concealed in any particular house or place, the magistrate, if he is satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such property.

Search warrants in other cases.

SECT. 2. Any such magistrate may also, upon like complaint made on oath, issue search warrants when satisfied that there is reasonable cause, in the following cases, to wit:—

For counterfeit coin, notes, &c.

First. To search for and seize counterfeit or spurious coin, forged bank notes and other forged instruments, or tools, machines or materials, prepared or provided for making either of them.

For obscene books and prints.

Second. To search for and seize books, pamphlets, ballads, printed papers or other things containing obscene language, or obscene prints, pictures, figures or descriptions manifestly tending to corrupt the morals of youth, and intended to be sold, loaned, circulated or distributed, or to be introduced into any family, school or place of education.

For lottery tickets, &c.

Third. To search for and seize lottery tickets or materials for a lottery, unlawfully made, provided or procured, for the purpose of drawing a lottery.

For gaming apparatus, &c.
AMENDED. See chapter 36½ acts of 1869.

Fourth. To search for and seize gaming apparatus or implements used, or kept and provided to be used, in unlawful gaming, in any gaming-house or in any building, apartment or place resorted to for the purpose of unlawful gaming.*

To whom directed; when and how executed.

SECT. 3. All search warrants shall be directed to the sheriff of the county or his deputy, or to any of the constables of a city or town, commanding such officer to search, in the day-time, the house or place where the stolen property or other things for which he is required to search are believed to be concealed, (which place and property, or things to be searched

* All the furniture, fixtures and personal property found as above shall be seized.

for, shall be designated and described in the warrant,) and to bring such stolen property or other things, when found, and the persons in whose possession they are found, before the magistrate who issued the warrant, or some other magistrate or court having cognizance of the case.

SECT. 4. If there is satisfactory evidence that any property stolen, embezzled or obtained by false tokens or pretences, or that any of the other things for which a search warrant may be issued by the provisions of this chapter, are concealed, kept, prepared or used, in a particular house or place, a warrant may be issued by two magistrates, or by a police court, to authorize the searching of such house or place by a public officer, in the night time, and to bring the property or things described in the warrant, if found, and the persons in whose possession they are found, before either of the magistrates who issued the warrant, or some other magistrate or court having cognizance of the case.

Search in the night time, when allowed.

SECT. 5. When an officer in the execution of a search warrant finds stolen or embezzled property, or seizes any of the other things for which a search is allowed by the provisions of this chapter, all the property and things so seized shall be safely kept by the direction of the court or magistrate, so long as necessary for the purpose of being produced or used as evidence on any trial. As soon as may be afterwards, all such stolen and embezzled property shall be restored to the owner thereof, and all the other things seized by virtue of such warrants shall be burnt or otherwise destroyed under the direction of the court or magistrate.

Property seized may be kept as evidence, and then restored to owner or destroyed.

[Chapter 127, Acts of 1865.]

AN ACT relating to Personal Property, hired, leased or held as Collateral Security.

SECT. 1. Whoever, with intent to defraud, buys, receives, conceals, or aids in concealing, any personal property, hired, leased or held as collateral security, knowing the same to be hired, leased or held as aforesaid, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the jail not exceeding one year.

Penalty for act with intent to defraud.

SECT. 2. When complaint is made to any magistrate authorized to issue warrants in criminal cases that personal property, hired, leased or held as collateral security, has been fraudulently concealed, and that the complainant believes it is concealed in any particular house or place, the magistrate, if he is satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such property. [Approved April 1, 1865.]

Warrant for search to issue upon complaint of concealment.

LOTTERIES, ETC.

[Chapter 167, General Statutes.]

OF OFFENCES AGAINST PUBLIC POLICY.

Setting up or promoting illegal lotteries, gifts, &c.

SECT. 1. Whoever sets up or promotes any lottery for money; or by way of lottery disposes of any property of value, real or personal; or under the pretext of a sale, gift or delivery of any other property, or any right, privilege or thing whatever, disposes of, or offers or attempts to dispose of, any real or personal property, with an intent to make the disposal of such real or personal property dependent upon or connected with any chance by lot, dice, numbers, game, hazard or other gambling device whereby such chance or device is made an additional inducement to the disposal or sale of said property; and whoever aids, either by printing or writing, or is in any way concerned in the setting up, managing or drawing of any such lottery; or in such disposal or offer or attempt to dispose of property by any such chance or device, shall for each offence be punished by fine not exceeding two thousand dollars.

Permitting lotteries, &c., to be set up, &c., in a house, &c.

SECT. 2. Whoever in a house, shop, or building, owned or occupied by him or under his control, knowingly permits the setting up, managing, or drawing, of such lottery, or such disposal, or attempt to dispose of property, or the sale of a lottery ticket, or share of a ticket, or any other writing, certificate, bill, token, or other device, purporting or intended to entitle the holder, bearer, or any other person, to a prize, or to a share of or interest in a prize, to be drawn in a lottery, or in such disposal of property; and whoever knowingly suffers money or other property to be raffled for in such house, shop, or building, or to be won there by throwing or using dice, or by any other game of chance; shall for each offence be punished by fine not exceeding two thousand dollars.

Selling lottery tickets, shares, &c., or aiding therein.

SECT. 3. Whoever sells, either for himself or another person, or offers for sale, or has in his possession with intent to sell or offer for sale, or to exchange or negotiate, or in any wise aids or assists in the selling, negotiating, or disposing of, a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token, or other device, or any share or right in such disposal or offer, as is mentioned in section one, shall for each offence be punished by fine not exceeding two thousand dollars.

Second conviction.

SECT. 4. Whoever, after being convicted of any offence mentioned in either of the preceding sections, commits the like offence, or any other of the offences therein mentioned, shall,

in addition to the fine before provided therefor, be punished by imprisonment in the house of correction not exceeding one year.

SECT. 5. Whoever advertises any lottery ticket, or any share in such ticket, for sale, either himself or by another person, or sets up or exhibits, or devises or makes for the purpose of being set up or exhibited, any sign, symbol, or emblematic or other representation, of a lottery or the drawing thereof, in any way indicating where a lottery ticket or a share thereof, or any such writing, certificate, bill, token, or other device, before mentioned, may be purchased or obtained, or in any way invites or entices, or attempts to invite or entice, any other person to purchase or receive the same, shall for each offence be punished by fine not exceeding one hundred dollars.

Advertising lottery tickets for sale.
Exhibiting representation of lottery, &c.

SECT. 6. Whoever makes or sells, or has in his possession with intent to sell, exchange, or negotiate; or by printing, writing, or otherwise, assists in making or selling, or in attempting to sell, exchange, or negotiate a false or fictitious lottery ticket, or any share thereof, or any writing, certificate, bill, token, or other device, before mentioned, or any ticket, or share thereof, in a fictitious or pretended lottery, knowing the same to be false or fictitious; or receives any money or other thing of value for any such ticket or share of a ticket, writing, certificate, bill, token, or other device, purporting that the owner, bearer, or holder, thereof, shall be entitled to receive any prize, or share of a prize, or any other thing of value, that may be drawn in a lottery, knowing the same to be false or fictitious; shall for each offence be punished by imprisonment in the state prison not exceeding three years.

Making or selling tickets in a fictitious lottery.

SECT. 7. Upon the trial of an indictment for either of the offences mentioned in the preceding section, any ticket or share of a ticket, or any other writing or thing before mentioned, which the defendant has sold or offered for sale, or for which he has received a valuable consideration, shall be deemed to be false, spurious, or fictitious, unless such defendant proves that the same was true and genuine, duly issued by the authority of some legislature within the United States, that such lottery was existing and undrawn, and that such ticket or share thereof, or other writing or thing before mentioned, was issued by lawful authority, and binding upon the persons who issued the same.

Defendant to prove genuineness, &c., of tickets sold by him.

SECT. 8. All sums of money and every other valuable thing drawn as a prize or as a share of a prize in any lottery, and all property disposed of or offered to be disposed of by any chance or device under the pretext mentioned in section one, by any person being an inhabitant or resident within this state, and all sums of money or other things of value received by any such person, by reason of his being the owner or holder of any ticket or share of a ticket in a lottery or pretended lottery, or of a share or right in any such scheme of chance or such device, contrary to the provisions of this chapter, shall be forfeited, and

Prizes, &c., forfeited to the State.

may be recovered by an information filed, or by an action for money had and received, brought by the attorney-general or any district-attorney or other prosecuting officer in the name and on behalf of the Commonwealth.

Racing, &c., declared unlawful.

Penalty.

SECT. 9. All racing, running, trotting, or pacing, of any horse or other animal of the horse kind, for a bet or wager of money or other valuable thing, or for a purse or stake, made within this state, is declared to be unlawful; and all persons engaged in such racing, running, trotting, or pacing, for any such bet or wager, purse or stake, and all persons aiding or abetting the same, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the jail not exceeding one year, or by both such fine and imprisonment.

Location and regulation of race grounds and trotting parks.

Selectmen &c., may alter terms.

SECT. 10. No land within any town or city shall be laid out or used as a race ground or trotting park, for the admission to which of persons or property, any money or other valuable consideration shall be directly or indirectly taken or required, without the previous consent of and location by the selectmen or mayor and aldermen; who may regulate and alter the terms and conditions under which the same shall be laid out, used, or continued in use; and discontinue the same when in their judgment the public good so requires; and no land shall be used for any of the purposes mentioned in the preceding section.

Unlawful race grounds deemed nuisances.

Penalty.

SECT. 11. Every race ground or trotting park established, laid out, used, or continued in use, contrary to the provisions of this chapter, is declared a common nuisance, and shall be abated as such; and all persons owning, keeping, using, or permitting to be used, such race ground or trotting park, or aiding or abetting therein, shall be punished in the manner provided in section nine.

[Chap. 112, Acts of 1869.]

AN ACT concerning Lotteries, and the Sale of Tickets in Lotteries without the Commonwealth.

Promoting lotteries in State, drawn or managed out of State.

SECT. 1. Whoever, in this Commonwealth aids, either by printing or writing, or is in any way concerned in the setting up, promoting, managing or drawing of any lottery for money, set up, promoted, managed or drawn, without this Commonwealth, shall for such offence be punished by a fine not exceeding two thousand dollars.

Selling lottery tickets, or having in possession with intent to sell.

SECT. 2. Whoever, in this Commonwealth, sells, either for himself or for another person, or offers for sale, or has in his possession with intent to sell or offer for sale, or to exchange or negotiate, or in anywise aids or assists in the selling, exchanging or negotiating of a ticket or a share of a ticket in any lottery named in the first section of this act, shall, for each offence, be punished by a fine not exceeding two thousand dollars. [Approved March 26, 1869.]

VAGRANTS AND VAGABONDS.

[Chapter 235, Acts of 1866.]

AN ACT concerning Vagrants and Vagabonds.

SECT. 1. All idle persons who, not having visible means of support, live without lawful employment; all persons wandering abroad and visiting tippling shops or houses of ill-fame, or lodging in groceries, out-houses, market places, sheds, barns or in the open air, and not giving a good account of themselves; all persons wandering abroad and begging, or who go about from door to door, or place themselves in the streets, highways, passages or other public places to beg or receive alms, shall be deemed vagrants.

Vagrants, who to be deemed.

SECT. 2. It shall be the duty of sheriffs, constables and police officers, acting on the request of any person or upon their own information or belief, to arrest and carry such vagrant before a trial justice or police court within the town or district where such vagrant may be, for the purpose of an examination, and shall then and there make a complaint against such vagrant in due form of law.

To be arrested and taken before a justice.

SECT. 3. Whoever shall be convicted upon his own confession, or by other competent evidence, of being a vagrant within the meaning of this act, shall be committed for a term not exceeding six months to the house of correction for the county, or the house of industry or workhouse where the conviction is had.

Vagrants to be committed to the house of correction.

SECT. 4. Any person known to be pickpocket, thief or burglar, either by his own confession or otherwise, or by his having been convicted of either of said offences, and having no visible or lawful means of support, when found prowling around any steamboat landing, railroad depot, banking institution, broker's office, place of public amusement, auction room, store, shop, crowded thoroughfare, car or omnibus, or at any public gathering or assembly in any town or city, shall be deemed a vagabond, and shall be taken into custody by any sheriff, deputy sheriff, constable or police officer; and the officer making the arrest shall, within twenty-four hours after such arrest, (Sunday and legal holidays excepted,) bring him before some proper court or magistrate in the city, town or county where the arrest was made, and if found guilty of being a vagabond, within the meaning of this act, upon a complaint duly made, shall be committed to the house of correction for the term of not less than four nor more than twelve months.

Pickpockets, &c., prowling about public places to be arrested as vagabonds.

SECT. 5. The provisions of section seventeen of chapter one hundred and seventy-eight, and of section thirty-two of chapter one hundred and sixty-five of the General Statutes, shall apply to this act. [Approved May 15, 1866.]

Application of former laws to this act.

[Chap. 165, General Statutes.]

Rogues, vagabonds, &c.

SECT. 28. Rogues and vagabonds, idle and dissolute persons who go about begging, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common night walkers, pilferers, lewd, wanton, and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill-fame, gaming houses, or tippling shops, may, upon conviction, be committed, for a term not exceeding six months, to the house of correction, or to the house of industry or workhouse within the city or town where the conviction is had, or to the workhouse, if any there is, in the city or town in which the offender has a legal settlement, if such town is within the county.

—may be punished by fine, and sentenced conditionally.

SECT. 29. When a person is convicted, by a justice of the peace or police court, of any offence mentioned in the preceding section, he may, instead of the punishment therein mentioned, be punished by fine not exceeding twenty dollars, either with or without a condition that if the same with the costs of prosecution is not paid within a time specified, he shall be committed to the house of correction, house of industry, or workhouse, as is provided in the preceding section; which conditional sentence shall be carried into execution according to the provisions of section seven of chapter one hundred and seventy-four.

EMPLOYMENT OF CHILDREN.

[Chapter 42, General Statutes.]

OF THE EMPLOYMENT OF CHILDREN AND REGULATIONS RESPECTING THEM.

Certain children not to be employed in manufactory, unless, &c.
AMENDED.
See chap. 285
Acts of 1867.

SECT. 1. Children of the age of twelve [ten] years and under the age of fifteen years, who have resided in this state for the term of six months, shall not be employed in a manufacturing establishment unless within twelve months next preceding the term of such employment they have attended some public or private day school, under teachers approved by the school committee of the place in which said school was kept, at least one term of eleven weeks (three months), and unless they shall attend such a school for a like period during each twelve months of

such employment. Children under twelve years of age, having resided in this state for a like period, shall not be so employed unless they have attended a like school for the term of eighteen weeks within twelve months next preceding their employment, and a like term during each twelve months of such employment.

SECT. 2. The owner, agent or superintendent of a manufacturing establishment, who employs a child in violation of the provisions of the preceding section, shall forfeit a sum not exceeding fifty dollars for each offence, to be recovered by indictment, to the use of the public schools in the city or town where such establishment is situated; and the school committees in the several cities and towns shall prosecute for all such forfeitures.

Penalty.

SECT. 3. No child under the age of twelve years shall be employed in any manufacturing establishment more than ten hours in one day; and the owner, agent or superintendent, who knowingly employs such a child for a greater number of hours, shall forfeit the sum of fifty dollars for each offence, to the use of the person prosecuting therefor.

School committee to prosecute.

Children under 12 not to be employed more than ten hours a day.
Penalty.

SECT. 4. Each city and town may [shall] make all needful provisions and arrangements concerning habitual truants, and children not attending school, or without any regular and lawful occupation, or growing up in ignorance, between the ages of five and sixteen years; and also all such by-laws respecting such children as shall be deemed most conducive to their welfare and the good order of such city or town; and there shall be annexed to such by-laws suitable penalties, not exceeding twenty dollars for any one breach: *provided*, that said by-laws shall be approved by the superior court of the county.

By-laws respecting habitual truants, &c.
AMENDED.
See chap. 21
Acts of 1862.

Fines.

SECT. 5. The several cities and towns [availing themselves of the provisions of the preceding section,] shall appoint at the annual meetings of such towns, or annually by the mayor and aldermen of such cities, three or more persons, who alone shall be authorized, in case of violation of such by-laws, to make the complaint and carry into execution the judgment thereon.

Violations of, how to be prosecuted.
AMENDED by striking out the words in brackets.
See chap. 21
Acts of 1862.

SECT. 6. A minor convicted under such by-law of being a habitual truant, or of not attending school, or of being without regular and lawful occupation, or growing up in ignorance, may, at the discretion of the justice or court having jurisdiction of the case, instead of the fine mentioned in section four, be committed to any such institution of instruction, house of reformation, or suitable situation provided for the purpose under authority of section four, for such time, not exceeding two years, as such justice or court may determine.

Minor convicted may be committed, &c.

SECT. 7. A minor convicted of either of said offences and sentenced to pay a fine, may, in default of payment thereof be committed to such institution of instruction, house of reformation, or suitable situation provided as aforesaid. And upon proof that the minor is unable to pay the fine and has no parent, guardian, or person chargeable with his support, able to pay the same, he may be discharged by such justice or court, whenever

On non-payment of fine may be committed.

How discharged.

it is deemed expedient, or he may be discharged in the manner poor convicts may be discharged from imprisonment for non-payment of fines and costs.

Warrants
where return-
able.
Compensation.

SECT. 8. Warrants issued under this chapter shall be returnable before any trial justice or judge of a police court, at the place named in the warrant; and the justice or judge shall receive such compensation as the city or town determines.

[Chapter 21, Acts of 1862.]

AN ACT amending the Statutes relating to Habitual Truants.

Fourth section
forty-second
chapter, G. S.

SECT. 1. The fourth section of the forty-second chapter of the General Statutes is hereby amended by striking out the word "may," and inserting instead thereof, the word "shall."

Fifth section.

SECT. 2. The fifth section of the same chapter is hereby amended by striking out the words, "availing themselves of the provisions of the preceding section." [Approved Feb. 14. 1862.]

[Chapter 207, Acts of 1862.]

AN ACT concerning Truant Children and Absentees from School.

Towns shall
make necessary
provisions and
by-laws re-
specting.

SECT. 1. Each city and town shall make all needful provisions and arrangements concerning habitual truants, and also concerning children wandering about in the streets or public places of any city or town, having no lawful occupation or business, not attending school, and growing up in ignorance, between the ages of seven and sixteen years; and shall also make all such by-laws respecting such children as shall be deemed most conducive to their welfare and the good order of such city or town; and there shall be annexed to such by-laws suitable penalties, not exceeding twenty dollars for any one breach: *provided*, that said by-laws shall be approved by the superior court sitting in any county in the Commonwealth.

Fines.

Proviso.

Commitments
to public insti-
tutions.

SECT. 2. Any minor convicted of being a habitual truant, or any child convicted of wandering about in the streets or public places of any city or town, having no lawful occupation or business, not attending school, and growing up in ignorance, between the ages of seven and sixteen years, may, at the discretion of the justice or court having jurisdiction of the case, instead of the fine mentioned in the first section, be committed to any such institution of instruction, house of reformation, or suitable situation provided for the purpose under the authority of the first section, for such time, not exceeding two years, as such justice or court may determine. [Approved April 30, 1862.]

NOTE.—Chapter 44 Acts of 1863, extends jurisdiction to Police Court, city of Boston, and any judge or justice of any police court and trial justice in the State, and provides for discharge of minors in certain cases. Chapter 208, Acts of 1865, provides that house of reformation may be assigned as place for habitual truants.

[Chapter 285, Acts of 1867.]

AN Act in relation to the Schooling and Hours of Labor of Children employed in Manufacturies and Mechanical Establishments.

SECT. 1. No child under the age of ten years shall be employed in any manufacturing or mechanical establishment within this Commonwealth, and no child between the age of ten and fifteen years shall be so employed, unless he has attended some public or private day school under teachers approved by the school committee of the place in which such school is kept, at least three months during the year next preceding such employment: *provided*, said child shall have lived within this Commonwealth during the preceding six months; nor shall such employment continue unless such child shall attend school at least three months in each and every year; and *provided*, that tuition of three hours per day in a public or private day school approved by the school committee of the place in which such school is kept, during a term of six months, shall be deemed the equivalent of three months' attendance at a school kept in accordance with the customary hours of tuition; and no time less than sixty days of actual schooling shall be accounted as three months, and no time less than one hundred and twenty half days of actual schooling shall be deemed an equivalent of three months.

Child under ten years shall not be employed.

Nor under fifteen unless taught three months in year preceding.

Provisos.

Shall so attend yearly.
Day school, time in how construed.

Sixty days to be accounted three months.

SECT. 2. No child under the age of fifteen years shall be employed in any manufacturing or mechanical establishment more than sixty hours in one week.

Child under fifteen not to work over sixty hours a week.

SECT. 3. Any owner, agent, superintendent or overseer of any manufacturing or mechanical establishment, who shall knowingly employ or permit to be employed, any child in violation of the preceding sections, and any parent or guardian who allows or consents to such employment, shall, for such offence, forfeit the sum of fifty dollars.

Penalty if owner or agent of company, or parent or guardian violate restrictions.

SECT. 4. It shall be the duty of the constable of the Commonwealth to specially detail one of his deputies, to see that the provisions of this act, and all other laws regulating the employment of children or minors in manufacturing or mechanical establishments, are complied with, and to prosecute offences against the same; and he shall report annually to the governor all proceedings under this act; and nothing in this section shall be so construed as to prohibit any person from prosecuting such offences.

Constable of state to cause enforcement of act.

Shall report action to governor.

SECT. 5. Chapter two hundred and seventy-three of the acts of the year eighteen hundred and sixty-six is hereby repealed: *provided*, that this act shall not affect any proceedings now pending.

Ch. 273, Acts of 1866, repealed.

SECT. 6. This act shall take effect sixty days from its passage. [Approved May 29, 1867.]

STATE POLICE.

[Chapter 249, Acts of 1865.]

AN ACT to establish a State Police.

Constable of Commonwealth, appointment, residence and deputies.

SECT. 1. There shall be appointed by the governor, with the consent of the council, an officer to be entitled the constable of the Commonwealth, who shall be commissioned to hold office for three years, unless sooner removed. Such officer shall reside in the city of Boston, and keep an office at some place therein, to be approved by the governor: he shall appoint as many deputies as the governor and council may direct, having at least one deputy in each county of the Commonwealth, and at least twenty deputies in the county of Suffolk.

Powers of constable and deputies defined.

SECT. 2. The said constable of the Commonwealth and his deputies shall have and exercise all the common law and statutory powers of constables, except the service of civil process, and also all the powers given to the police or watchmen by the statutes of the Commonwealth, or the charters or ordinances of the several cities, concurrently with such officers, and their powers as constables shall extend throughout the Commonwealth. Said constable and his deputies shall at all times obey all orders of the governor in relation to the preservation of the public peace, or the execution of the laws throughout the Commonwealth, and it shall be their duty to see that the laws of the Commonwealth are observed and enforced; and they shall especially use their utmost endeavors to repress and prevent crime, by the suppression of liquor shops, gambling places and houses of ill-fame.

Shall obey orders of governor and see that the laws be executed.

Salary of constable and per diem of deputies.

SECT. 3. The constable of the Commonwealth shall be paid out of the treasury of the Commonwealth an annual salary of two thousand dollars, in equal quarterly payments, and his deputies shall be paid at the rate of three dollars per day when on duty. When required to travel on duty from one city or town to another, they shall be allowed the same compensation which is allowed by law to sheriffs and their deputies. The accounts of the deputy constables shall be verified by the affidavits of said constable, and shall be approved by the constable of the Commonwealth before being presented to the auditor of the Commonwealth, and when duly audited shall be paid out of the treasury of the Commonwealth.

Travel.

Accounts of deputies to be sworn and approved, audited and paid.

Constable, with approval of governor and council, to fix rules for deputies.

SECT. 4. The constable of the Commonwealth, with the approval of the governor and council, shall make all needful rules for the regulation of the police duties of his deputies, and he shall see to it that not less than six deputies shall be on police duty at all hours of the day and night in the city of Boston,

for the prevention of crime and the enforcement of the criminal laws of the Commonwealth.

SECT. 5. The governor shall have power at all times in any emergency, of which he shall be the judge, to assume command of the whole or any part of the municipal police and constabulary force in any place, and to authorize the constable of the Commonwealth to command their assistance in the execution of criminal process, in suppressing riots, and in preserving the peace. [*Approved May 16, 1865.*]

Governor may direct, or authorize constable to direct, civil force of State.

[Chapter 261, Acts of 1866.]

AN ACT in addition to an Act to establish a State Police.

SECT. 1. The constable of the Commonwealth shall appoint as many deputies as the governor and council may direct, having at least two deputies in each of the counties of Barnstable, Berkshire, Hampshire, Franklin and Hampden, four in each of the counties of Worcester, Middlesex, Essex and Norfolk, three in each of the counties of Bristol and Plymouth, and thirty in the county of Suffolk.

Deputy constables, number of.

SECT. 2. It shall be the duty of the constables of the several towns and cities of the Commonwealth, city marshals, chiefs of police and all other police officers to aid the constable of the Commonwealth and his deputies in the discharge of their duties, whenever reasonably notified and called upon for that purpose.

City and town police to aid when notified and called on.

SECT. 3. This act, and the act to which this is an addition, shall not be construed as releasing the police officers of the towns and cities of the Commonwealth from their duty to see that all the laws of the Commonwealth are observed and enforced; it being the design of this act, and the aforesaid act, that all the police officers herein named shall act in harmony and full co-operation, to the end that the laws may be executed and crime suppressed.

City and town police not released from their duties, but to act in harmony with State police.

SECT. 4. The constable of the Commonwealth, his deputies and all other police officers, shall use their utmost endeavors to repress and prevent other crimes by the suppression of all illegal manufacture and sale of intoxicating liquors.

City and town police to endeavor to suppress sale and manufacture of liquor.

SECT. 5. Whoever falsely assumes or pretends to be the constable of the Commonwealth, or a deputy of the constable of the Commonwealth, and takes upon himself to act as such, or to require any person to aid and assist him in a matter pertaining to the duty of such officer, shall be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding four hundred dollars.

Penalty for falsely assuming to be constable or deputy.

SECT. 6. This act shall take effect upon its passage. [*Approved May 26, 1866.*]

[Chapter 442, Acts of 1869.]

AN ACT in addition to an Act concerning the Manufacture and Sale of Intoxicating Liquors.

Word "constable," in Chap. 415, Acts of 1869, defined.

SECT. 1. The word "constable," wherever it occurs in chapter four hundred and fifteen of the acts of the current year, shall be held and construed to include within its meaning the constable of the Commonwealth and his deputies.

When to take effect.

SECT. 2. This act shall take effect on the first day of July in the year eighteen hundred and sixty-nine. [*Approved June 22, 1869.*]

CRUELTY TO ANIMALS.

[Chapter 344, Acts of 1869.]

AN ACT for the more effectual Prevention of Cruelty to Animals.

Penalty for beating or starving animals.

SECT. 1. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes, or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed, any animal; and whoever having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, shall for every such offence be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

—for driving or working when unfit for labor.

SECT. 2. Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in, or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering or cruelty of any kind, shall be punished for every such offence in the manner provided in section one.

Railroads not to confine animals in cars for more than 28 consecutive hours.

SECT. 3. No railroad company, in the carrying or transportation of animals, shall permit the same to be confined in cars, for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water and feeding, for a period of at least five consecutive hours, unless prevented from so un-

loading by storm or other accidental causes. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received, shall be included; it being the intent of this act to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon contingencies herein before stated. Animals so unloaded shall be properly fed, watered and sheltered during such rest, by the owner or person having the custody thereof, or, in case of his default in so doing, then by the railroad company transporting the same, at the expense of the owner or person in custody thereof, and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals authorized by this act. Any company, owner or custodian of such animals who shall fail to comply with the provisions of this section, shall for each and every such offence be liable for and forfeit and pay a penalty of not less than one nor more than five hundred dollars: *provided, however*, that when animals shall be carried in cars in which they can and do have proper food, water, space, and opportunity for rest, the foregoing provision in regard to their being unloaded shall not apply.

Animals to be unloaded, fed and watered.

Penalty on railroads for each offence.

Proviso.

SECT. 4. Any person found violating the laws in regard to cruelty to animals, may be arrested and held without warrant in the same manner as in case of persons found breaking the peace; and the person making an arrest with or without warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same: *provided*, the owner shall take charge of the same within sixty days from the date of said notice. And the person making such arrest shall have a lien on said animals for the expense of such care and provision.

Persons may be arrested without warrant, as in case of breach of the peace. Notice to be given to owner of animals.

Proviso.

SECT. 5. When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals has been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, deputy state constable, constable or police officer to search such building or place; but no such search shall be made after sunset unless specially authorized by the magistrate, upon satisfactory cause shown.

Search warrant may be issued, not to be served after sunset unless authorized by magistrate.

SECT. 6. In this act the word "animal" or "animals" shall be held to include all brute creatures; and the words "owner," "person," and "whoever," shall be held to include corporations as well as individuals, and the knowledge and acts of agents of and persons employed by corporations in regard to animals

Words "animal," "owner," &c., defined.

transported, owned or employed by or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

Duty of sheriffs,
police officers,
&c., to prosecute.

SECT. 7. It shall be the duty of all sheriffs, deputy sheriffs, deputy state constables, constables and police officers to prosecute all violations of the provisions of this act which shall come to their notice or knowledge, and fines and forfeitures collected upon or resulting from the complaint or information of any officer or agent of the Massachusetts Society for the Prevention of Cruelty to Animals, under this act, shall inure and be paid over to said society in aid of the benevolent objects for which it was incorporated.

Police courts,
&c., to have
concurrent
jurisdiction
with superior
court.

SECT. 8. The several municipal and police courts and trial justices in this Commonwealth shall have full concurrent jurisdiction with the superior court of all offences under this act, and to the full extent of the penalties therein specified.

Repeal.

SECT. 9. Chapter two hundred and twelve of the acts of the year eighteen hundred and sixty-eight is hereby repealed, except as to prosecutions now pending under the same, and offences heretofore committed. [*Approved June 2, 1869.*]

PROTECTION OF ANIMALS.

[Chapter 88, General Statutes.*]

Penalty for removing collar,
&c.

SECT. 57. Whoever wrongfully removes the collar from or steals a dog, licensed and collared as aforesaid, shall be punished by fine not exceeding fifty dollars; and whoever wrongfully kills, maims, entices, or carries away such a dog, shall be liable to its owner for its value in an action of tort. Whoever distributes or exposes any poisonous substance, with intent that the same shall be eaten by any dog, shall be punished by fine not exceeding fifty nor less than ten dollars.

—for exposing
poisons, &c

Dogs, damages
by.

SECT. 59. Every owner or keeper of a dog shall forfeit to any person injured by it double the amount of the damage sustained by him, to be recovered in an action of tort.

—when any
person may kill,
&c.

SECT. 60. Any person may kill a dog that shall suddenly assault him while he is peaceably walking or riding without the enclosure of its owner or keeper; and any person may kill a dog that is found out of the enclosure or immediate care of its owner or keeper, worrying, wounding or killing any neat cattle, sheep or lambs.

* So much of this chapter is given as is not directly repealed by chapter 299 of the Acts of 1864.

SECT. 61. If any person so assaulted, or finding a dog strolling out of the enclosure or immediate care of its owner or keeper, shall, within forty-eight hours after such assault or finding, make oath thereof before a justice of the peace or police court for the county, or before the clerk of the city or town where the owner of the dog dwells, and shall further swear that he suspects the dog to be dangerous or mischievous, and shall give notice thereof to its owner or keeper by delivering him a certificate of such oath, signed by such justice or clerk, the owner or keeper shall forthwith kill or confine it; and if he neglects so to do for twenty-four hours after such notice, he shall forfeit ten dollars.

—dangerous, to be confined by owner or killed.

SECT. 62. If, after such notice, the dog is not killed or confined, but is again found strolling out of the enclosure or immediate care of its owner or keeper, any person may kill it.

—after notice, any person may kill.

SECT. 63. If a dog, after such notice to its owner or keeper, shall by such assault wound or cause to be wounded any person, or shall worry, wound or kill any neat cattle, sheep or lambs, or do any other mischief, the owner or keeper shall be liable to pay to the person injured thereby treble the damage, to be recovered by an action of tort.

Liability of owner in case, &c.

SECT. 67. The city council of any city, and the inhabitants of any town, may make such additional by-laws and regulations concerning the licensing and restraining of dogs as they deem expedient, and may affix any penalties, not exceeding ten dollars, for any breach thereof; but such by-laws and regulations shall relate only to dogs owned or kept in such city or town; and the annual fee required for a license shall in no case be more than one dollar in addition to the sum required by section fifty-two.

Towns may make by-laws, &c.
Fees for license.

SECT. 68. All fines and penalties provided in the sixteen preceding sections may be recovered on complaint before any police court or trial justice in the county where the offence is committed.

Fines, &c., how recovered.

[Chapter 130, Acts of 1867.]

AN ACT concerning Dogs, and for the protection of Sheep and other Domestic Animals.

SECT. 1. Every owner or keeper of a dog shall annually, on or before the thirtieth day of April, cause it to be registered, numbered, described, and licensed for one year from the first day of the ensuing May, in the office of the clerk of the city or town wherein said dog is kept, and shall cause it to wear around its neck a collar distinctly marked with its owners' name and its registered number, and shall pay for such license, for a male dog two dollars, and for a female dog five dollars.

Dogs shall be licensed in April by town, and wear collar.

Fees.

New owner after May 1, of unlicensed dog, to comply.

Clerk of town to issue licenses and account for fees.
Except in Suffolk.

Shall keep record.

Duties of county and town treasurers, except in Suffolk.

Penalty for keeping unlicensed dog.

License valid in state and may be transferred to other town.

Assessors to take list of dogs on first of May and return to clerk.

Penalty for refusal of or false answer.

Mayor and chairman selectmen, in July, to direct officers to cause killing of unlicensed dogs and complaint against keepers.

Fees.

SECT. 2. Any person becoming the owner or keeper of a dog not duly licensed, on or after the first day of May, shall cause said dog to be registered, numbered, described and licensed until the first day of the ensuing May, in the manner, and subject to the terms and duties prescribed in this act.

SECT. 3. The clerks of cities or towns shall issue said licenses, and receive the money therefor, and pay the same into the treasuries of their respective counties, except in the county of Suffolk, on or before the first day of December of each year, retaining to their own use twenty cents for each license, and shall return therewith a sworn statement of the amount of moneys thus received and paid over by them. They shall also keep a record of all licenses issued by them, with the names of the keepers or owners of dogs licensed, and the names, registered numbers and descriptions of all such dogs.

SECT. 4. It shall be the duty of each county treasurer, and of each city or town treasurer, except in the county of Suffolk, to keep an accurate and separate account of all moneys received and expended by him under the provisions of this act.

SECT. 5. Any person keeping a dog contrary to the provisions of this act, shall forfeit fifteen dollars, to be recovered by complaint or indictment; and of said fine or forfeiture, five dollars shall be paid to the complainant, and ten dollars shall be paid to the treasurer of the county in which the dog is kept; except that in the county of Suffolk, the ten dollars shall be paid to the treasurer of the city or town wherein said dog is kept. A license from the clerk of any city or town shall be valid in any part of the Commonwealth, and may be transferred with the dog licensed: *provided*, said license be recorded by the clerk of the city or town where such dog is kept.

SECT. 6. The assessors of the cities and towns shall annually take a list of all dogs owned or kept in their respective cities or towns, on the first day of May, with the owners' or keepers' names, and return the same to the city or town clerk, on or before the first day of July. Any owner or keeper of a dog who shall refuse to give just and true answers, or shall answer falsely to the assessors relative to the ownership thereof, shall be punished by a fine of not less than ten dollars, to be paid, except in the county of Suffolk into the county treasury.

SECT. 7. Mayors of cities and the chairman of selectmen of towns shall annually, within ten days from the first day of July, issue a warrant to one or more police officers or constables, directing them to proceed forthwith either to kill or cause to be killed all dogs within their respective cities or towns, not licensed and collared according to the provisions of this act, and to enter complaint against the owners or keepers thereof; and any person may, and every police officer and constable shall, kill or cause to be killed all such dogs whenever or wherever found. Such officers, other than those employed under regular pay, shall receive one dollar for each dog so destroyed, from the treasurers

of their respective counties, except that in the county of Suffolk they shall receive it from the treasurers of their respective cities or towns. All bills for such service shall be approved by the mayor, or chairman of the selectmen, of the city or town in which said dogs are destroyed, and shall be paid from moneys received under the provisions of this act.

Bills for service, how paid.

SECT. 8. Each police officer or constable to whom the warrant named in the preceding section shall have been issued shall return the same, on or before the first day of the October following, to the mayor or chairman of the selectmen issuing the same, and shall state in said return the number of dogs killed, and names of the owners or keepers thereof, and whether all unlicensed dogs in his city or town have been killed, and the names of persons against whom complaints have been made under the provisions of this act, and whether complaints have been entered against all the persons who have failed to comply with the provisions of this act.

Officer to make return of warrant, on first October, with information of doings, &c.

SECT. 9. The mayors of cities and the chairman of the selectmen of towns, shall annually, within ten days from the first day of October, transmit a certificate, regularly subscribed and sworn to, of the fact of the issue of the warrant named in section seven, and whether the same has been duly executed and returned, agreeable to the provisions of this act, to the district-attorneys of their respective districts, whose duty it shall be to prosecute all such city, town or county officers as fail to comply with the provisions of this act.

Mayors and chairmen of selectmen on tenth of October to send sworn statement to district-attorney.

SECT. 10. Whoever suffers loss by the worrying, maiming or killing of his sheep, lambs, fowls or other domestic animals by dogs, may inform the mayor of the city or the chairman of the selectmen of the town wherein the damage was done, who shall proceed to the premises where the damage was done and determine whether the same was inflicted by dogs, and if so, appraise the amount thereof and return a certificate of said amount, except in the county of Suffolk, to the county commissioners, on or before the first day of December: *provided, however*, that if, in the opinion of said mayor or chairman of the selectmen, the amount of said damage shall exceed the sum of twenty dollars, he shall appoint two disinterested persons who, with the said mayor or chairman of selectmen, shall appraise the amount of such damage and return a certificate of the same, except in the county of Suffolk, to the county commissioners, on or before the first day of December. The county commissioners shall, during the month of December, examine all such bills, and, when any doubt exists, may summon the appraisers and all parties interested, and make such examination as they may think proper, and shall issue an order upon the treasurer of the county in which the damage was done, for all or any part thereof, as justice and equity may require.

Persons suffering loss by dogs may have appraisement.

Provide; if more than \$20, how disposed.

County commissioners to examine bills in December, and may order payment.

The treasurer shall annually, on the first Wednesday of January, pay all such orders in full, if the gross amount received

County treasurer to pay in January.

by him and not previously paid out under the provisions of this act is sufficient therefor; otherwise he shall divide such amount *pro rata* among such orders, in full discharge thereof.

Appraisers,
how paid.

The appraisers shall receive from the county, or in the county of Suffolk from the city or town treasurer, out of the money received under the provisions of this act, the sum of one dollar each for every examination made by them as prescribed in this section; and the mayor or the chairman of the selectmen acting in the case, shall receive twenty cents per mile one way for his necessary travel in the case.

Mayor and selectmen, mileage.

Owner of animals may elect procedure.

The owner of sheep, lambs, or other domestic animals worried, maimed or killed by dogs, shall have his election whether to proceed under the provisions of this section or under the provisions of sections sixty-one, sixty-two and sixty-three of chapter eighty-eight of the General Statutes; but, having signified his election by proceeding in either mode, he shall not have the other remedy. In the absence or sickness of the mayor of the city, or chairman of the selectmen of a town, in which the damage is done, it shall be the duty of any one of the aldermen of said city, or of the selectmen of said town, who may be duly informed of damage supposed to have been done by dogs, to discharge forthwith the duties imposed by this section upon the mayor or chairman of selectmen.

Mayor or chairman of selectmen unable, proceedings in case.

Penalty if officer fail of duty.

SECT. 11. Any city, town, or county officer refusing or wilfully neglecting to perform the duties herein imposed upon him, shall be punished by fine not exceeding one hundred dollars, to be paid, except in the county of Suffolk, into the county treasury. Any person aggrieved by such refusal or neglect on the part of any city, town or county officer, may report the same forthwith to the district-attorney of his district.

Persons aggrieved thereby may report to attorney.

County treasurer may bring action for damage.

SECT. 12. The treasurer of any county may, and when ordered by the county commissioners, shall, bring an action of tort against the owner or keeper of any dog concerned in doing damage to sheep, lambs or other domestic animals in said county, which damage the said county commissioners have ordered to be paid, to recover the full amount thereof to the use of said county. All fines and penalties provided in this act may be recovered on complaint or indictment before any court of competent jurisdiction in the county where the offence is committed.

Recovery of fines and penalties.

The last clause of this section repealed. See chap. 250 Acts of 1899.

Moneys received by the treasurer of any city, town or county, under the provisions of this act, and not expended in accordance with its provisions, may be applied to the payment of any city, town or county expenses.

County of Suffolk; moneys to be paid city or town.

SECT. 13. In the county of Suffolk, all moneys received for licenses or recovered as fines or penalties under the provisions of this act, which if received or recovered in any other county, would be paid into the county treasury, shall be paid into the treasury of the city or town in which said licenses are issued or said fines or penalties recovered. All claims for damage done by dogs in said county shall be determined by appraisers as

specified in section ten of this act, and, when approved by the board of aldermen or selectmen of the city or town where the damage was done, shall be paid in full on the first Wednesday of January of each year by the treasurer of said city or town, if the gross amount received by him and not previously paid out under the provisions of this act is sufficient therefor; otherwise such amount shall be divided *pro rata* among such claimants in full discharge thereof.

Claims for damage of dogs therein, how determined and paid.

After such claims have been approved by the board of aldermen or selectmen, the treasurer of said city or town may, and, when ordered by the board of aldermen or selectmen, shall, bring an action of tort to recover, against the owner or keeper of any dog concerned in doing the damage, the full amount thereof.

Claims approved, treasurer of town may bring action to recover.

SECT. 14. Any person owning or keeping a licensed dog, who may have received a notice, in accordance with section sixty-one of chapter eighty-eight of the General Statutes, that said dog is mischievous or dangerous, and who does not kill it or keep it thereafter from ever going at large, shall, on complaint or indictment, forfeit ten dollars, if it be proved that such dog be mischievous or dangerous.

Penalty for freedom of licensed dog when dangerous after notice.

SECT. 15. All acts or parts of acts inconsistent with this act are hereby repealed.

Repeal.

SECT. 16. The warrants required to be issued by the seventh section of this act, may be in the following form, viz.:—

Form of warrant under seventh section.

COMMONWEALTH OF MASSACHUSETTS.

[Seal.]

M ss. To , constable of the town (or city) of

In the name of the Commonwealth of Massachusetts, you are hereby required to proceed forthwith to kill or cause to be killed all dogs within the said town not duly licensed and collared according to the provisions of the act of the year eighteen hundred and sixty-seven, entitled "An Act concerning Dogs, and for the protection of Sheep and other Domestic Animals," and you are further required to make and enter complaint against the owner or keeper of any such dog.

Hereof fail not, and make due return of this warrant with your doings therein, stating the number of dogs killed and the names of the owners or keepers thereof, and whether all unlicensed dogs in said town (or city) have been killed, and the names of persons against whom complaints have been made under the provisions of said act, and whether complaints have been made and entered against all the persons who have failed to comply with the provisions of said act, on or before the first day of October next.

Given under my hand and seal at aforesaid, the day of
in the year eighteen hundred and
(Mayor of, or) Chairman of the Selectmen of

SECT. 17. This act shall take effect upon its passage. [*Approved April 9, 1867.*]

[Chapter 250, Acts of 1869.]

AN ACT in addition to an Act concerning Dogs.

Unexpended
moneys received for taxes on
dogs to be applied for benefit
of public libraries or schools.

In Suffolk
County, how
disposed of.

Repeal.

SECT. 1. Moneys received by the treasurer of any county under the provisions of chapter one hundred and thirty of the acts of the year eighteen hundred and sixty-seven, and not expended in the payment of damages done by dogs, in accordance with the provisions of said act, shall be paid back to the treasurers of the several cities and towns of said county, in the month of January of each year, in proportion to the amount paid by said city or town to said county treasurer; and the money so refunded shall be expended for the support of public libraries or schools, in addition to the amount annually appropriated by said city or town for those purposes. In the county of Suffolk, moneys received by any treasurer of a city or town under the provisions of this act, and not expended in accordance with the provisions of the same, shall be appropriated by the school committee of said city or town for the support of the public schools therein established.

SECT. 2. The last clause of section twelve of chapter one hundred and thirty of the acts of the year eighteen hundred and sixty-seven, is hereby repealed.

SECT. 3. This act shall take effect upon its passage. [*Approved May 10, 1869.*]

PROTECTION OF BIRDS, ETC.

[Chapter 246, Acts of 1869.]

AN ACT to aid in the Preservation of Birds, Birds' Eggs, and Deer.

Woodcock and
partridges not
to be killed at
certain times,
under penalty.

Quail not to be
killed at certain
times, under
penalty.

SECT. 1. Whoever, between the first day of January and the fifteenth day of August, takes or kills any woodcock, or between the first day of February and the first day of September, takes any ruffed grouse or partridges, or within the respective times aforesaid, sells, buys or has in his possession any of said birds so taken or killed in this Commonwealth, or elsewhere, shall forfeit for every such bird twenty-five dollars.

SECT. 2. Whoever, between the first day of April, eighteen hundred and sixty-nine, and the first day of November, eighteen hundred and seventy-two, takes or kills any of the birds known as quail or Virginia partridge, in any way whatsoever, shall forfeit for every such bird the sum of twenty-five dollars. And whoever shall, after the first day of November, eighteen hundred and seventy-two, take or kill any of said birds, except in the

months of November and December annually, shall forfeit for every such bird the sum of twenty-five dollars.

SECT. 3. Whoever, at any season of the year, within this state, takes or kills any of the birds called pinnated grouse or heath hens, or sells, buys or has in his possession any of said birds so killed or taken, shall forfeit for every such bird twenty-five dollars.

Pinnated grouse or heath hens.

Penalty.

SECT. 4. Whoever, between the first day of March and the first day of July, takes or kills any marsh birds or upland plover, within this state, shall forfeit for every such bird twenty-five dollars.

Marsh birds, upland plover.

Penalty.

SECT. 5. Whoever, between the first day of March and the first day of September, takes or kills any fresh water fowl, shall forfeit for every such bird twenty-five dollars.

Fresh water fowl.

Penalty.

SECT. 6. Whoever, at any season of the year, within this state, kills any fresh water fowl or sea fowl, either upon the feeding or roosting grounds of said fowls, shooting from any vessel, boat or craft, or chases or pursues and captures said fowl upon or from their feeding or roosting grounds, in any boat or vessel of any kind whatever, shall forfeit for every such bird so taken or killed twenty-five dollars.

Fresh water or sea fowl not to be killed on feeding or roosting grounds.

Penalty.

SECT. 7. Whoever, at any season of the year, takes or kills any undomesticated bird not heretofore mentioned in this act, except snipe, hawks, owls, crows, jays and gulls, or destroys or disturbs the eggs or nests of such undomesticated birds, except the nests or eggs of snipe, hawks, owls, crows, jays and gulls, shall forfeit twenty-five dollars for each offence: *provided*, that any person, having first obtained the written consent of the mayor and aldermen of any city, or selectmen of any town, may, in such city or town, take or destroy, for scientific purposes only, such birds and eggs as said written consent may specify.

Penalty for killing other undomesticated birds, except snipe, hawks, &c.

Proviso.

SECT. 8. Whoever, between the first day of April, eighteen hundred and sixty-nine, and the fifteenth day December, eighteen hundred and seventy-two, and thereafter between the fifteenth day of December and the first day of September, takes or kills any deer, except his own tame deer, kept on his own grounds, shall forfeit for every such offence twenty-five dollars.

Deer not to be killed until Dec. 15, 1872.

SECT. 9. The mayor and aldermen and selectmen of the several cities and towns of this Commonwealth shall cause the provisions of the preceding sections to be enforced in their respective places; and all forfeitures accruing under these sections shall be paid, two-thirds to the informant or prosecutor, and one-third to the city or town where the offence is committed.

Municipal authorities to enforce law.

Forfeitures, how disposed of.

SECT. 10. Chapter eighty-two of the General Statutes, and chapters forty-six and one hundred and fifty-eight of the acts of the year eighteen hundred and sixty-five, chapter two hundred and fifty-seven, and chapter one hundred and twenty-five, of the acts of the year eighteen hundred and sixty-seven, and chapters

Repeal.

one hundred and twenty-six, one hundred and fifty-eight and one hundred and sixty-one, of the year eighteen hundred and sixty-eight, are hereby repealed. [*Approved May 10, 1869.*]

HAWKERS AND PEDDLERS.

[Chapter 50, General Statutes.]

Articles which may be sold by peddlers without license.

SECT. 13. Any person may go about from town to town or from place to place, or from dwelling-house to dwelling-house in the same town, exposing to sale and selling fruits and provisions, live animals, brooms, agricultural implements, fuel, newspapers, books, pamphlets, agricultural products of the United States, and the products of his own labor or the labor of his family.

Cities and towns may regulate such sales by minors.

SECT. 14. The city council of any city, and the inhabitants of any town, may authorize the mayor and aldermen or selectmen thereof to restrain the sale by minors of any goods, wares, or merchandise, the sale of which is permitted in the preceding section, and while such authority remains in force, the mayor and aldermen and selectmen may make such rules restraining such sales by minors, or may grant licenses to minors to make such sales upon such terms and conditions as they shall prescribe; but such restraints and licenses shall not remain in force beyond their term of office. Whoever is guilty of a violation of the rules and regulations so made, or sells any such articles without a license when the same has been required, shall forfeit a sum not exceeding ten dollars for each offence.

Penalty.

Prohibited articles.

SECT. 15. The sale of jewelry, wines, spirituous liquors, playing cards, indigo and feathers, in the manner specified in section thirteen is prohibited.

Secretary may grant licenses on certificate of mayor, &c., for sale of goods not prohibited.

SECT. 16. The secretary of the Commonwealth may grant a license to go about exposing to sale and selling any goods, wares or merchandise, not prohibited in the preceding section, to any applicant who files in his office a certificate signed by the mayor of a city or by a majority of the selectmen of a town, stating that to the best knowledge and belief of such mayor or selectmen, the applicant therein named resides in such city or town, is a citizen of the United States, and of good repute for morals and integrity. The mayor or selectmen before granting such certificate shall require the applicant to make oath that he is the person named therein, that he is a resident of such city or town, and a citizen of the United States; which oath shall be certified by a justice of the peace, and accompany the certificate. Every license so granted shall bear date the first day of

anuary of the year in which it is granted, and shall continue in force one year, and no longer.

SECT. 17. The secretary shall cause to be inserted in every license the names of such cities and towns as the applicant selects, with the sum to be paid to the respective treasurers thereof annexed, and shall receive from the applicant one dollar for each city or town so inserted. Every person so licensed may sell as aforesaid any goods, wares and merchandise, not prohibited in section fifteen, in any city or town mentioned in his license, upon first paying the sum so required to the treasurer of such city or town, who shall certify on the face of the license the sum so received.

Form and effect of license.

Party may sell on payment, &c.

SECT. 18. Every person licensed under the two preceding sections shall pay to the treasurer of each city or town mentioned in his license, the sums following: for every town containing not more than one thousand inhabitants, according to the United States census next preceding the date of his license, three dollars; for every town containing more than one thousand and not more than two thousand inhabitants, six dollars; for every town containing more than two thousand and not more than three thousand inhabitants, eight dollars; for every town containing more than three thousand and not more than four thousand inhabitants, ten dollars; and for every city and town containing more than four thousand inhabitants, ten dollars, and one dollar for every one thousand inhabitants over four thousand contained therein; but the sum so to be paid to a treasurer shall in no case exceed twenty-five dollars.

Fees for license.

SECT. 19. Any person resident, paying taxes upon his stock in trade, and qualified to vote in any city or town, may there expose to sale and sell goods, wares, or merchandise, upon obtaining a license pursuant to the provisions of sections sixteen and seventeen, and shall not be required to pay to the treasurer of such city or town any sum therefor.

Residents paying taxes, &c., may be licensed without fee.

SECT. 20. The secretary, upon the conditions required in section sixteen, may grant special state licenses, upon payment by the applicant of one hundred dollars for each license; and the person so licensed may expose to sale any goods, wares or merchandise, not prohibited, in any city or town. He may also grant as aforesaid, upon payment by the applicant of one dollar for each county mentioned therein, special county licenses; and the person so licensed may expose to sale, within such counties, any tin, britannia, glass, or wooden wares, of the manufactures of the United States, or any other goods, wares or merchandise manufactured by himself or his employer, and not prohibited in section fifteen, upon tendering to the treasurer of each county mentioned in said license, respectively, the sums following: for Suffolk, Essex, Middlesex and Worcester, each four dollars; for Norfolk, Berkshire, Hampden, Bristol and Plymouth, each three dollars; for Franklin, Hampshire and Barnstable, each two dollars; for Nantucket one dollar; for the county of Dukes County

State licenses.

County licenses.

one dollar. And the county treasurers, respectively, upon the receipt of any sum as aforesaid, shall certify the amount so received on the face of the license.

Records of licenses.

SECT. 21. The secretary shall keep a record of all licenses granted, with the number of each, the name and residence of the persons licensed, the counties, cities and towns mentioned therein, of all special state licenses and of all transfers of licenses. The treasurers of the counties, cities and towns shall severally keep records of all licenses upon which the sums provided in this chapter have been paid, with the number of each, the name and residence of the persons licensed, and the sums received thereon, and all such records shall be open to public inspection.

Sums paid for licenses, how appropriated.

SECT. 22. All sums paid to the secretary under this chapter shall be for the use of the state; and all sums paid to the treasurer of a county, city or town shall be for the use of such county, city or town.

Licenses may be transferred.

SECT. 23. A license granted under the provisions of section sixteen or nineteen may be transferred by the secretary, upon application therefor and upon evidence furnished by the applicant like that required for granting a license. The person to whom it is transferred shall thereafter be liable in all respects as if he were the person originally licensed. No person shall sell under such license except the person named therein or in such transfer.

Persons licensed to post name, &c., on parcels or vehicle, and exhibit license on demand, &c.

SECT. 24. Every person licensed to peddle as herein before provided shall post his name, residence, and the number of his license, in a conspicuous manner upon his parcels or vehicle, and when such license is demanded of him by any mayor, alderman, selectman, town or city treasurer or clerk, constable, police officer, or justice of the peace, shall forthwith exhibit it, and if he neglects or refuses so to do, shall be subject to the same penalty as if he had no license. So much of this chapter as relates to hawkers and peddlers, or a synopsis thereof shall be printed on every license.

Licenses, when not to protect, party, &c. Shall be void, if, &c.

SECT. 25. No license to go about offering for sale or selling as aforesaid shall operate to defeat or bar a prosecution against the person licensed, if it is proved that he exposed to sale any article except such as are permitted in section thirteen, in any county, city or town, where he was not licensed to sell, or in which he had not paid the sum mentioned in his license; but no person so licensed shall be required to make payment to the treasurer of any county, city or town before he is prepared to trade therein. The license of any person convicted of a violation of any provision of this or the ten preceding sections, shall be void.

Penalty for counterfeiting, &c., licenses, and selling without license.

SECT. 26. Whoever counterfeits or forges a license, or has a counterfeit or forged license in his possession, with intent to utter or use the same as true, knowing it to be false or counterfeit, or attempts to sell under a license which has expired, or is

forfeited, or which was not granted or has not been transferred to him, shall forfeit a sum not exceeding one thousand dollars.

SECT. 27. Whoever goes from town to town, or from place to place, or from dwelling-house to dwelling-house, carrying for sale or exposing to sale, any goods, wares or merchandise, or takes a residence in any town for that purpose for a less term than one year, except as herein before provided, shall forfeit a sum not exceeding two hundred dollars for each offence.

—for unauthorized sales.

SECT. 28. No hawker, peddler or other itinerant trader holding an auctioneer's license, shall sell or expose for sale by public auction any goods, wares or merchandise, in any other city or town than that from whose authority such license was obtained, nor in any place in such city or town except such as shall be expressly described or set forth in said license.

Hawkers, &c., licensed as auctioneers, not to sell, &c.

[Chapter 178, Acts of 1862.]

AN ACT in relation to Hawkiers and Peddlers.

Nothing in the thirteenth section of the fiftieth chapter of the General Statutes shall be so construed as to include therein any articles of the growth or production of foreign countries. [Approved April 30, 1862.]

General Statutes, construction defined.

[Chapter 151, Acts of 1864.]

AN ACT relating to Hawkiers and Peddlers.

SECT. 1. All licenses hereafter granted to hawkiers and peddlers, under the fiftieth chapter of the General Statutes, shall bear date the day they are issued, and shall continue in force one year from such date.

Licenses, date and duration.

SECT. 2. The applicant for any special state license which may be granted hereafter, under the twentieth section of this chapter, shall be required to pay fifty dollars for such license, and no more.

Special state license fee.

SECT. 3. It shall be the duty of constables and police officers within their respective towns and cities, to arrest and prosecute any person whom they may have reason to believe guilty of violating the provisions of said fiftieth chapter, relating to hawkiers and peddlers; and one-half of any forfeiture which may be incurred and recovered under the twenty-seventh section of said chapter shall be paid to the complainant.

Municipal officers shall prosecute for violations.

Forfeitures.

SECT. 4. So much of the fiftieth chapter of the General Statutes as is inconsistent with this act is hereby repealed. [Approved April 13, 1864.]

Repeal.

[Chapter 197, Acts of 1866.]

AN ACT to exempt Disabled Soldiers and Sailors from paying for Peddlers' Licenses.

Secretary upon
proof of identi-
ty, may grant
special license.

The secretary of the Commonwealth is hereby authorized to grant a special license to any disabled soldier or sailor belonging to this Commonwealth, according to the provisions of the twentieth section of the fiftieth chapter of the General Statutes, without the payment of any sum therefor, upon satisfactory evidence of the identity of such soldier or sailor, and that he is wholly or partially disabled by reason of wounds received in the service of the United States, or by sickness or disability contracted therein, and has received an honorable discharge from said service. [*Approved April 30, 1866.*]

[Chapter 12, Acts of 1868.]

AN ACT giving Jurisdiction to Police Courts and Trial Justices in certain cases.

Police courts
and trial jus-
tices may take
jurisdiction
over offences
described in G.
S. 50, § 27.

SECT. 1. Police courts and trial justices may, in their discretion, exercise jurisdiction over offences described in the twenty-seventh section of the fiftieth chapter of the General Statutes, and in such cases may impose a fine not exceeding fifty dollars.

SECT. 2. This act shall take effect upon its passage. [*Approved February 17, 1868.*]

PROTECTION OF RELIGIOUS MEETINGS.

[Chapter 165, General Statutes.]

Disturbing reli-
gious worship.

SECT. 21. Whoever wilfully interrupts or disturbs any assembly of people met for the worship of God shall be punished by imprisonment in the jail not exceeding thirty days, or by fine not exceeding fifty dollars.

[Chapter 59, Acts of 1867.]

AN ACT for the Protection of Camp Meetings.

Penalty for
bawking or
vending with-
out permis-
sion, or engag-
ing in game,
horse-race or

SECT. 1. Whoever, during the time of holding any camp or field meeting, for religious purposes, and within one mile of the place of holding such meetings, hawks or peddles goods, wares or merchandise, or establishes or maintains any tent, booth or building for vending provisions or refreshments, without per-

mission from the authorities or officers having the charge or direction of such meeting, or engages in gaming or horse-racing, or exhibits or offers to exhibit any show or play, shall forfeit for each offence a sum not exceeding twenty dollars: *provided*, that the powers and privileges herein granted shall be exercised only for a term of not exceeding twelve consecutive days, in any one year; and also *provided*, that a person having a regular, usual and established place of business within such limits is not hereby required to suspend his business.

show within one mile.

Limitation to twelve days.

Usual business excepted.

SECT. 2. The twenty-second section of the one hundred and sixty-fifth chapter of the General Statutes is hereby repealed: *provided*, this repeal shall in no wise affect the prosecution of any offence heretofore committed. [*Approved March 11, 1867.*]

G. S. 165, § 22 repealed.

[Chapter 231, Acts of 1864.]

AN ACT to regulate the Transportation of Passengers, Freight and Baggage to and from the Martha's Vineyard Camp Ground.

Whoever, during the time of holding the Martha's Vineyard camp-meeting, or during the two weeks next preceding its commencement, or the week next after its close, and within one mile and a quarter of the place of holding said meeting, transports for hire, passengers, freight or baggage, to or from the place of holding said meeting without license from the agent of the Martha's Vineyard camp-meeting association, having charge of the camp-ground, who shall act under the general direction and subject to the control of the finance committee of said association, shall forfeit and pay for each offence a sum not exceeding twenty dollars. The amount to be paid for said license shall not exceed one dollar. [*Approved May 12, 1864.*]

Penalty for, without license from agent.

Fee for license.

FISHERIES, ETC.

[Chapter 83, General Statutes.]

SECT. 1. Whoever puts or throws into any waters within this state, for the purpose of taking or destroying any fish therein, any of the *cocculus indicus*, otherwise called Indian berry or Indian cockle, or any other poisonous substance, whether the same is mixed with any other substance or not, shall forfeit ten dollars for every such offence.

Penalty for poisoning fish with Indian cockle, &c.

SECT. 2. Whoever takes or catches any pickerel or trout in any rivers, streams or ponds, in any other manner than by hooks

—for unlawfully catching pickerel and trout.

AMENDED. See
Chap. 249 Acts
of 1866.

and lines, or takes or catches any pickerel from the first day of December to the first day of May, [or any trout from the twentieth day of September to the twentieth day of March,] shall forfeit one dollar for every pickerel or trout so taken, and if he is a minor, his guardian shall be liable to said forfeiture; but this section shall not extend to any town unless adopted thereby, nor shall it affect the statutes specially relating to the district of Marshpee.

Prosecutions
limited.

SECT. 3. All prosecutions under the preceding section shall be instituted within thirty days from the time of committing the offence.

Penalty for un-
lawfully taking
lobsters, &c., in
Fairhaven, &c.

SECT. 4. No person living without this state shall take any lobsters, tautog, bass, or other fish within the harbors, streams or waters of the towns of Fairhaven, New Bedford, Dartmouth and Westport, for the purpose of carrying them thence in vessels or smacks, of any size whatever, owned without this state, nor in any of more than fifteen tons burden owned within this state, under a penalty of ten dollars for every offence and a forfeiture of all fish and lobsters so taken.

Boundaries of
shores, &c., in
preceding sec-
tion.

SECT. 5. For the purposes of the preceding section the waters and shores of the towns therein mentioned shall be deemed to extend from the line of the state of Rhode Island to the line of the county of Plymouth, and to include all the waters, islands and rocks lying within one mile of the main land.

Lobsters, &c.,
in certain towns
not to be car-
ried off by in-
habitants of
other states,
nor by persons
of this state in
vessels of over
15 tons.

SECT. 6. If, within the harbors, streams or waters of any place on the sea-coast in this state which has adopted chapter eighty-five of the statutes of the year eighteen hundred and thirty-nine, according to the provisions of that act, or which shall have adopted this section, any person living without the state takes, for the purpose of carrying thence, any lobsters, tautog, bass, blue fish, or scuppaug, or if any person living within this state takes and carries away from such place any such fish or lobsters in vessels or smacks of more than fifteen tons burden, he shall forfeit for each offence a sum not exceeding twenty dollars and all the fish and lobsters so taken.

Lobster fishery
on shores, &c.,
of Provincetown.

SECT. 7. No person shall take lobsters within the waters and shores of the town of Provincetown, for the purpose of carrying them from such waters in any vessel or smack of more than fifteen tons burden, or for the purpose of putting the same on board of such vessel or smack, to be transported to any place, unless a permit is first obtained therefor from the selectmen of said town, who may grant the same for such sum to be paid to the use of the town, as they shall deem proper.

Penalty.

SECT. 8. Whoever offends against the provisions of the preceding section shall for each offence forfeit ten dollars; and if the number of lobsters so unlawfully taken or found on board of any such vessel or smack exceeds one hundred, he shall in addition to said penalty forfeit a further sum of ten dollars for every hundred lobsters so taken or found, and in that proportion for any number over the first hundred.

SECT. 9. For the purposes of the two preceding sections the waters and shores of Provincetown shall be deemed to be as follows, viz.: beginning at Race Point, one-half mile from the shore, by said shore to the end of Long Point, which forms the harbor of Provincetown, and from the end of Long Point one-half mile and including the harbor within the town of Provincetown.

Waters and shores of Provincetown, defined.

SECT. 10. Whoever, between the first day of April and the first day of July inclusive, takes more than one hundred pounds per week of lobsters, tautog, bass or scuppaug in the bays, harbors, ponds, rivers or creeks of the waters of Buzzard's Bay, within one mile from the shore and within the jurisdiction of the towns of Sandwich and Wareham, shall forfeit a sum not exceeding fifty dollars, to be recovered in an action of tort by the selectmen or any legal voter of the towns of Sandwich or Wareham, to the use of the party suing therefor.

Penalty for taking lobsters, &c., in Sandwich and Wareham between March and July.

SECT. 11. Whoever takes oysters from their beds, or destroys them, or wilfully obstructs their growth therein, in any part of this state, except as is provided in the following sections, shall forfeit for every bushel of oysters (including the shells) so taken or destroyed, the sum of two dollars.

Penalty for unlawfully taking oysters, &c.

SECT. 12. The mayor and aldermen or selectmen of any city or town in which there are oyster beds may give permits in writing to any person to take oysters from their beds at such times, in such quantities, and for such uses as they shall express in their permits; and every inhabitant of such city or town may, without such permit, take oysters from the beds therein, for the use of his family, from the first day of September to the first day of June annually.

Selectmen, &c., may give permits.

SECT. 13. Whoever takes any other shell fish from their beds, or destroys them, or wilfully obstructs their growth therein in any city or town, except as is hereinafter provided, shall forfeit for every bushel of such other shell fish (including the shells) one dollar. But the mayor and aldermen or selectmen of each of said places may at all times give permits in writing to any person to take such other shell fish from their beds therein, at such times, in such quantities, and for such uses as they shall express in their permit; and every inhabitant of each of said places may, without such permit, take such other shell fish from the beds therein, for the use of his family.

Penalty for taking, &c., any other shell fish. AMENDED. See Chap. 258, Acts of 1867.

SECT. 14. If a vessel, boat or craft is found within the limits of any place and not owned therein, with oysters on board taken in such place without such permit or a license granted as hereinafter provided; or within the limits of any place and not owned therein, with other shell fish on board, taken in such place without a permit; any inhabitant of the place wherein the vessel, boat or craft is so found trespassing, may seize and detain the same not exceeding forty-eight hours, in order that it may in that time be attached or arrested by due process of law to satisfy said fines and forfeitures with costs: *provided*, that if

When vessels with oysters, &c., on board, may be seized.

before the prosecution is instituted the owner or master of the vessel, boat or craft pays such forfeiture to the treasurer of the city or town in which the same is incurred, the vessel, boat or craft, with the effects therein, shall be discharged.

Prohibitions
not to extend
to Indians, &c.
AMENDED. See
Chap. 70, Acts
of 1867.

SECT. 15. Nothing contained in the four preceding sections shall be construed to deprive native Indians of the privilege of digging shell fish for their own consumption, or to prevent any fisherman [an inhabitant of this state,] from taking any quantity of shell fish which he may want for bait, not exceeding at any one time seven bushels including their shells.

Selectmen, &c.,
may grant li-
censes to plant
oysters, &c.

SECT. 16. The mayor and aldermen or selectmen of any city or town may, by writing under their hands, grant a license for a term not exceeding twenty years to any inhabitant thereof to plant, grow and dig oysters, at all times of the year, upon and in any flats and creeks therein, at any place where there is no natural oyster bed; not, however, impairing the private rights of any person, nor materially obstructing the navigable waters of any creek or bay.

License to de-
scribe flats, be
recorded, &c.

SECT. 17. Such license shall describe by metes and bounds the flats and creeks so appropriated, and shall be recorded by the city or town clerk before it shall have any force; and the person licensed shall pay to the mayor and aldermen or selectmen, for their use, two dollars, and to the clerk fifty cents.

Rights of per-
sons licensed.

SECT. 18. The person so licensed, his heirs and assigns, shall for the purpose aforesaid have the exclusive use of the flats or creeks described in the license, during the time therein specified; and may in an action of tort recover treble damages of any person who, without his or their consent, digs or takes oysters from such flats or creeks during the continuance of the license; and whoever digs or takes oysters therefrom without such consent shall also forfeit twenty dollars for each offence.

Penalties for
trespassing.

SECT. 19. No person shall take from the towns of Chatham or Nantucket, or from the south shore of the town of Barnstable and district of Marshpee, any shell fish for bait or other use, except clams and a shell fish commonly known by the name of horsefeet; and no quantity exceeding seven bushels of clams, including the shells, or one hundred horsefeet, shall be taken in one week for each vessel or craft, nor in any case without a permit being first obtained from the selectmen of the town.

No shell fish
except clams,
&c., to be taken
in Chatham,
&c.
AMENDED. See
Chap. 258, Acts
of 1867.

[Chapter 46, Acts of 1860.]

AN ACT to protect the Fishery in Marshpee.

Taking of trout
forbidden
within certain
limits.

SECT. 1. No person shall take any trout in Marshpee River, extending to and including all the waters into which said river empties from the westerly side as far as the water flows, to a line drawn due east and west across the northerly end of Pop-

penessett Island, so called, thence on the same line east to the centre of the channel which forms the line of division between Barnstable and Marshpee, thence by said line of division northerly, till it meets a line drawn due east from the mouth of Quawker's River, so called, thence west to the mouth of said Quawker's River, and thence by the shore to the said Marshpee River, from the fifteenth day of September in each year, to the twentieth day of March in the year next ensuing.

SECT. 2. No person, except the proprietors of said district, shall take any trout in said river and the waters aforesaid, described in the first section, at any time, without a written permit from the treasurer of Marshpee, which shall specify the time when, and the places where, the person holding the same is allowed to fish. And no person shall at any time use any other means of taking trout in said river and waters described as aforesaid, than by angling with hooks and lines.

Other restrictions.

Manner of taking fish.

SECT. 3. The said district may, by vote in legal meeting, make any regulations or by-laws respecting said fishery, not repugnant to the provisions of this act; and the income from said fishery shall inure wholly to said district.

Regulations.

SECT. 4. Any person offending against the provisions of this act, or any regulations or by-laws passed by authority of the third section of this act, shall forfeit and pay a fine of twenty dollars for each and every offence, to be recovered by prosecution before any trial justice in the county of Barnstable, to the benefit of said district.

Penalty.

SECT. 5. Any person who shall have in his possession any trout, knowing the same to have been taken from said river, contrary to the provisions of this act, shall forfeit the sum of fifty cents for every trout so found in his possession.

Penalty.

SECT. 6. If any minor shall offend against the provisions of this act, the parent, master or guardian of such minor shall be liable, and may be prosecuted accordingly therefor.

Penalty against minors.

SECT. 7. The said district, at any regular meeting, with notice in the warrant that the subject will be acted on, may authorize the selectmen of said district to lease or dispose of the trout or herring fishery belonging to said district, from time to time, for terms of time not exceeding twenty years in any one lease, the proceeds to go into the treasury for the benefit of the district; and they may elect and appoint two or more fish wardens to protect said fishery. All prosecutions under this act shall be commenced within one year from the time when the offence is committed.

Lease of fishery.

Fish wardens.

SECT. 8. The thirty-sixth chapter of the year eighteen hundred and forty-nine, and the fifth section of chapter one hundred eighty-six of the year eighteen hundred and fifty-three, and chapter one hundred and five of the year eighteen hundred and fifty-nine, are hereby repealed. [Approved February 24, 1860.]

Repealing section.

[Chapter 58, Acts of 1862.]

AN ACT for the protection of Trout in Maple Spring Pond, in the Town of Wareham.

Taking prohibited from September to April.

Permits and conditions.

Penalty for violation.

SECT. 1. No person shall take any trout in Maple Spring Pond, in the town of Wareham, or in the waters running into or flowing therefrom, from the fifteenth day of September in each year, to the fifteenth day of April in the year next ensuing; nor shall any person take any trout therefrom except by hook and lines, nor without permission of the proprietor or proprietors.

SECT. 2. Any person offending against the provisions of this act, shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Plymouth. [*Approved March 6, 1862.*]

[Chapter 59, Acts of 1862.]

AN ACT for the protection of Black Bass.

Taking prohibited from December to June.

Penalty for violation.

AMENDED. See Chap. 249, Acts of 1866.

SECT. 1. No person shall take any black bass in any fresh water stream or pond, from the first day of December, in each year, to the first day of June in the year next ensuing, or use any other means of taking them than by angling with hooks and lines.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of [not less than two nor more than twenty dollars for each offence,] one dollar for each black bass taken, to be recovered by prosecution before any trial justice or police court in the county where the offence is committed.

[*Approved March 7, 1862.*]

[Chapter 94, Acts of 1862.]

AN ACT for the protection of Trout in Nye's Pond, in the Town of Sandwich.

Season for taking trout.

Mode of fishing.

Restriction.

Penalty.

SECT. 1. No person shall take any trout in Nye's Pond, in Sandwich, or the stream running therefrom to Jeremy's Creek, so called, from the first day of August in each year, to the first day of April in the year next ensuing; nor shall any person take any trout therefrom except by hook and line; nor shall any person enter upon the land bordering upon said pond or stream, at any season of the year for the purpose of taking trout, without the written permission of the proprietors.

SECT. 2. Any person offending against the provisions of this act, shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Barnstable. [*Approved March 27, 1862.*]

[Chapter 161, Acts of 1862.]

AN ACT to limit the Time for Taking or Catching Trout.

The second section of the eighty-third chapter of the General Statutes is hereby amended, by inserting after the word "May," the words "or any trout from the tenth day of September to the tenth day of March." [*Approved April 28, 1862.*]

General Statutes amended.

[Chapter 62, Acts of 1864.]

AN ACT to protect the Shad Fishery in the Connecticut River.

SECT. 1. No person shall set, draw or sweep any seine or net, the meshes of which are less than two and one-fourth inches square when new and dry, for the purpose of catching shad or any other fish, in that part of the Connecticut River which is within the limits of this Commonwealth, and below the dam across said river at Holyoke, between the first day of May, and the fifteenth day of July, during each year.

Use of certain nets forbidden between the 1st May and 15th July.

SECT. 2. Every person violating the provisions of the preceding section, shall be liable to a fine of not less than ten, nor more than fifty dollars for each offence, to be recovered in any court competent to try the same; one-half of said fine to inure to the use of the town in which the offence shall be committed, and the other half to the person who shall prosecute therefor.

Penalty for violation.

SECT. 3. This act shall take effect upon its passage. [*Approved March 2, 1864.*]

[Chapter 150, Acts of 1864.]

AN ACT to protect the Trout Fishery in Marshpee.

SECT. 1. No person shall take any trout in Quashnet River, in the district of Marshpee, from the fifteenth day of September, in each year, to the twentieth day of March, in the year next ensuing.

Fishery in Quashnet River restricted.

SECT. 2. No person except the proprietors of said district shall take any trout in said river without a written permit from the treasurer of Marshpee, which shall specify the time when, and the place where, the person holding the same is allowed to fish; and no person shall at any time use any other means of taking trout in said river, than by angling with hook and line.

Specific permits from treasurer of district required.

SECT. 3. The said district may, by vote in legal meeting, with notice in warrant to that effect, make any regulations or by-laws respecting said fishery not repugnant to the provisions of this act; and the income from said fishery shall inure wholly to said district.

District may regulate and income inure to.

SECT. 4. Any persons offending against the provisions of this act, or any regulations or by-laws passed by authority of the

Penalty for violations.

third section of this act, shall forfeit and pay a fine of twenty dollars for each offence, to be recovered by prosecution before any trial justice in the county of Barnstable, for the benefit of said district.

Penalty for receiving trout.

SECT. 5. Any person who shall receive any trout, knowing the same to have been taken from said river, contrary to the provisions of this act, shall forfeit the sum of fifty cents for every trout so received.

Fish-wardens.

SECT. 6. Said district, at any regular meeting, with notice in the warrant to that effect, may elect and appoint two or more fish-wardens to protect said fishery. All prosecutions under this act shall be commenced within one year from the time when the offence is committed.

Act when in force.

SECT. 7. This act shall take effect upon the first day of May next. [*Approved April 13, 1864.*]

[Chapter 234, Acts of 1864.]

AN ACT in relation to Fisheries in the Town of Winchester.

Fisheries in Mystic River, regulations extended to Winchester.

SECT. 1. All acts heretofore passed for the preservation of fish and the regulation of fisheries in the Mystic River, shall extend to the town of Winchester, and to all the ponds and streams therein; and the committee for the preservation of fish in said town, shall have full powers to remove all obstructions to the passage of fish therein, during the time fixed by law for the free passage of fish.

Construction of act.

SECT. 2. Nothing in this act shall be construed to affect any of the provisions of the act, entitled "An Act for supplying the city of Charlestown with Pure Water," approved March twenty-eighth in the year eighteen hundred and sixty-one.

SECT. 3. This act shall take effect upon its passage. [*Approved May 12, 1864.*]

[Chapter 259, Acts of 1864.]

AN ACT to regulate Seining in the Harbor of Mattapoissett.

Seining forbidden except with permission of selectmen.

No person shall set, draw or use any seine or net in the harbor of Mattapoissett or the waters flowing into said harbor, within a line drawn from Strawberry Point, on the easterly side of said harbor, to the most southerly point of Mattapoissett Neck, on the westerly side of said harbor, without the permission of the selectmen of Mattapoissett; and any person offending against the provisions of this act, shall forfeit and pay the sum of twenty dollars for each offence, to be recovered by complaint before any trial justice, for the use of the complainant. [*Approved May 13, 1864.*]

Penalty.

[Chapter 238, Acts of 1866.]

AN Abstract of Act concerning Obstructions to the Passage of Fish in the Connecticut and Merrimack Rivers.

SECT. 1. The governor, by and with the advice and consent of the council, is hereby authorized to appoint two persons to be commissioners of fisheries in the Merrimack and Connecticut Rivers, who shall hold said office for the term of five years, unless sooner removed therefrom. And in case of any vacancy in said board, the governor shall have power to fill the same.

Governor to appoint commission.

Tenure.

SECT. 2. Said commissioners shall forthwith examine the several dams on said rivers in this Commonwealth, and shall, after notice to the owners of said dams, determine and define the mode and plan upon which fishways shall be constructed suitable and sufficient in their opinion to secure the free passage of salmon and shad up said rivers during their accustomed seasons.

Commissioners to examine dams and determine construction of fishways.

SECT. 15. Any person who shall neglect or refuse to keep open or maintain any fishway at the times prescribed by the commissioners under this act, shall forfeit the sum of fifty dollars for each day's neglect or refusal so to keep open or maintain fishways, to be recovered by indictment in the county where said dam, or any part thereof, is situated, one-half thereof to the use of the complainant and the other half to the use of the Commonwealth.

Penalty for refusal or neglect to maintain or keep open fishways.

SECT. 16. This act shall take effect on its passage. [Approved May 15, 1866.]

[Chapter 249, Acts of 1866.]

AN Act for the Protection of Trout and Black Bass.

SECT. 1. Whoever takes or catches any trout in any rivers, streams or ponds, between the twentieth day of September and the twentieth day of March, or within the time aforesaid sells, buys or has in his possession any trout so taken within this state, shall forfeit one dollar for each trout so caught or taken, sold, bought or had in possession.

Penalty for taking or having trout, Sept. 20 to Mar. 20.

SECT. 2. Whoever shall take or catch any fish called black bass in any of the ponds within the limits of this Commonwealth, from the first day of December to the first day of June, or at any time except with hook and line, shall forfeit a sum not less than two nor more than twenty dollars for each offence, to be recovered by prosecution before any court competent to try the same.

Taking bass, Dec. 1 to June 1, except with hook.

SECT. 3. In all prosecutions for forfeitures under the provisions of this act, the fact of sale, purchase or possession shall be evidence that the trout or black bass so sold, purchased or had in possession were taken within this state. [Approved May 22, 1866.]

Facts, how construed.

[Chapter 70, Acts of 1867.]

AN ACT to amend Section fifteen of Chapter eighty-three of the General Statutes, in relation to the Fisheries.

Shell-fish for bait may be taken only by inhabitant of State.

SECT. 1. Section fifteen of chapter eighty-three of the General Statutes, is hereby amended by inserting the words, "an inhabitant of this state," after the word fisherman, in the third line.

SECT. 2. This act shall take effect upon its passage. [*Approved March 16, 1867.*]

[Chapter 149, Acts of 1867.]

AN ACT for the Restocking of Mystic River and its tributaries with Fish.

Right to take fish from river or pond suspended for five years.

SECT. 1. The right to take alewives or shad from the Mystic River or its tributaries, or from Mystic Pond, shall be and hereby is suspended for the period of five years next ensuing, and no net, seine or weir shall be set therein during said period.

Penalty for taking shad or alewife.

SECT. 2. Any person violating the provisions of this statute shall forfeit one dollar for every alewife or shad so taken.

AMENDED. See Chap. 128, Acts of 1868.

SECT. 3. All prosecutions under this act shall be commenced within thirty days from the time of committing the offence.

Prosecutions, limitation of time for. Town "committees" may destroy nets, seines, and weirs.

SECT. 4. The several "committees for the preservation of fish" of the towns of Medford, Somerville, West Cambridge, or Winchester may remove and destroy any and all nets, seines or weirs found in said waters during the said period of five years.

[*Approved April 13, 1867.*]

AMENDED. See Chap. 128, Acts of 1868.

[Chapter 237, Acts of 1867.]

AN ACT to protect the Oyster Fishery in Monument River.

Penalty for taking oysters before first October, 1868.

SECT. 1. Whoever takes any oysters from Monument River in the town of Sandwich, at any time previous to the first day of October in the year eighteen hundred and sixty-eight shall forfeit the sum of five dollars for each offence; and if the quantity of oysters taken exceeds one bushel, he shall forfeit the sum of five dollars for each bushel and any fraction of a bushel so taken.

Town of Sandwich may regulate thereafter.

SECT. 2. The inhabitants of the town of Sandwich, at a legal meeting held for the purpose, may make regulations concerning the taking of oysters in said river after said first day of October; and whoever takes any oysters from said river contrary to the regulations so made, shall be subject to the same penalties as are provided in the preceding section. The penalties provided in this act may be recovered by complaint or indictment in any court of competent jurisdiction.

Penalties, how recovered.

SECT. 3. This act shall take effect upon its passage. [*Approved May 15, 1867.*]

[Chapter 258, Acts of 1867.]

AN ACT concerning the Taking of Shell-fish in the Town of Barnstable.

SECT. 1. The provisions of the thirteenth and nineteenth sections of the eighty-third chapter of the General Statutes, are hereby extended to the north shore of the town of Barnstable, and the shores of Barnstable harbor.

G. S. 83, §§ 13, 19, extended to north and harbor shores.

SECT. 2. This act shall take effect upon its passage. [*Approved May 20, 1867.*]

[Chapter 110, Acts of 1868.]

AN ACT for the protection of Trout in Grist-Mill Pond, in the Town of Wareham.

SECT. 1. No person shall take any trout from Grist-Mill pond, near the Parker Mills Iron Works, in the town of Wareham, or the waters running into the same, at any time of the year, without permission of the proprietor or proprietors of said pond and waters.

Trout not to be taken from Grist-Mill Pond without consent of proprietors.

SECT. 2. Any person offending against the provisions of this act, shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Plymouth. [*Approved April 10, 1868.*]

Penalty.

[Chapter 123, Acts of 1868.]

AN ACT to amend "An Act for the Re-stocking of Mystic River and its Tributaries with Fish."

SECT. 1. The one hundred and forty-ninth chapter of the acts of the year one thousand eight hundred and sixty-seven, entitled "An Act for the re-stocking of Mystic River and its tributaries with fish," is hereby amended by adding to the second section thereof the words following, viz.: "*provided*, that the several committees for the preservation of fish mentioned in the fourth section, may take such fish as may be required to restock the said river and tributaries;" and also, by adding to the fourth section, after the word "Cambridge," the word "Woburn."

Act amended for re-stocking Mystic River with fish.

Proviso.

SECT. 2. Any person who shall place or cause to be placed in the waters of Mystic River or of its tributaries, or of Mystic Pond, or who shall cause to flow into said waters, any substance which may destroy or injure the fish therein, shall be punished by a fine not exceeding fifty dollars for each offence. [*Approved April 16, 1868.*]

Penalty for placing substances injurious to fish in Mystic River or Pond.

[Chapter 157, Acts of 1868.]

AN ACT for the Re-stocking of Ipswich River and its Tributaries with Fish.

Alewives and shad not to be taken from Ipswich River or Wenham Pond for three years. Penalty.

SECT. 1. The right to take alewives or shad from Ipswich River or its tributaries, or from Wenham Pond, shall be and is hereby suspended for the period of three years next ensuing, and no net, seine or weir shall be set therein during said period.

SECT. 2. Any person violating the provisions of this statute shall forfeit one dollar for every alewife or shad so taken.

When prosecutions to commence.

SECT. 3. All prosecutions under this act shall be commenced within thirty days from the time of committing the offence.

[Approved April 29, 1868.]

[Chapter 179, Acts of 1868.]

AN ACT for the Protection of Smelts.

Smelts not to be caught between first days of February and May.

To be caught by hooks, lines or hand nets, at other seasons. Penalty.

AMENDED. See Chaps. 64 and 75, Acts of 1869.

Fish may be taken at any time for artificial propagation.

When prosecutions to commence.

SECT. 1. Whoever catches any smelt from the first day of February to the first day of May in each year, in any manner whatever, or at any season of the year in any other manner than by hooks and lines or hand nets, shall forfeit twenty-five cents for each smelt so caught, to be recovered by prosecution before any trial justice or court competent try the same: *provided*, that nothing herein contained shall apply to any person catching smelt in any seine or net in Taunton Great River, while fishing for herring or alewives.

SECT. 2. The commissioners of river fisheries may take any kind of fish at any time for the purpose of obtaining spawn for artificial propagation of fish.

SECT. 3. All prosecutions under this act shall be instituted within thirty days from the time of committing the offence.

[Approved May 4, 1868.]

[Chapter 289, Acts of 1868.]

AN ACT for the protection of Trout in the Merrill Pond in the Town of Wendell.

Trout protected in Merrill Pond, in Wendell.

SECT. 1. No person shall take any trout from the Merrill Pond, on the old Wendell town farm, in the town of Wendell, or the waters running into the same, at any time of the year, without permission of the proprietor or proprietors.

Penalty for violation.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Franklin. [Approved June 4, 1868.]

[Chapter 290, Acts of 1868.]

AN ACT to protect Trout in Jones' Mill Creek in the Town of Barnstable.

SECT. 1. No person shall take any trout in Jones' mill creek, in the town of Barnstable, from its source to the junction with Scorton creek, and within two hundred yards of said junction, on either side thereof, from the first day of August in each year, to the first day of April in the year next ensuing; nor shall any person take any trout therefrom except by hook and line; nor shall any person enter upon the land bordering upon said pond or stream, at any season of the year, for the purpose of taking trout, without the written permission of the proprietors.

Trout protected in Jones' Mill Creek, in Barnstable.

SECT. 2. Any person offending against the provisions of this act, shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Barnstable.

Penalty for violation.

SECT. 3. This act shall take effect upon its passage. [*Approved June 4, 1868.*]

[Chapter 64, Acts of 1869.]

AN ACT concerning Fisheries in Bass River in the County of Barnstable.

SECT. 1. The provisions of chapter one hundred and seventy-nine of the acts of the year eighteen hundred and sixty-eight, shall not apply to the lessees of the towns of Yarmouth and Dennis, while fishing for perch or alewives in Bass River or its tributaries.

Chapter 179 of 1868 not to apply to Yarmouth and Dennis.

SECT. 2. This act shall take effect upon its passage. [*Approved March 10, 1869.*]

[Chapter 75, Acts of 1869.]

AN ACT relating to the Fisheries in Dukes County.

SECT. 1. Chapter one hundred and seventy-nine of the acts of the year eighteen hundred and sixty-eight shall not apply to any person catching smelts in any seine or net in any of the waters in Dukes County, while fishing for herring or alewives.

Chapter 179 of 1868 not to apply in Dukes County, when fishing for herring, &c.

SECT. 2. This act shall take effect upon its passage. [*Approved March 17, 1869.*]

[Chapter 76, Acts of 1869.]

AN ACT to extend the Provisions of the Act of the year Eighteen Hundred and Sixty-eight to Regulate Fishing in Connecticut River.

SECT. 1. Any person who shall take, or aid or assist in taking, from the Connecticut River, any shad at any other time

Penalty for taking shad between March 15 and June 15.

Penalty for taking salmon at any time before March 15, 1872.

Commissioners may take fish.

Seines not to be set or drawn between sunset on Saturday and sunrise on Monday.

Weirs, pounds, &c., to be kept open during same period.

Penalties.

Fish wardens to be appointed.

Repeal.

than between the fifteenth day of March and the fifteenth day of June in each year, shall forfeit and pay for each offence the sum of one hundred dollars; and any person who shall take, or aid or assist in taking, from the Connecticut River, any salmon before the fifteenth day of March, in the year one thousand eight hundred and seventy-two, shall forfeit and pay for each offence the sum of fifty dollars.

SECT. 2. Nothing in this act contained shall apply to the taking of any fish by order of the fish commissioners, for the purpose of the natural or artificial propagation of the same.

SECT. 3. No person shall set or draw, or shall assist or aid in setting or drawing, any net or seine for the purpose of taking fish in the Connecticut River, at any time between the setting of the sun on Saturday evening of each week and the rising of the sun on the succeeding Monday morning; and the owners of all weirs, pounds and set-nets of any description, placed in the waters of said river, shall cause the same to be and remain open and free for the passage of fish during said period in each week, in such manner as to satisfy the fish commissioners. And every person who shall violate the provisions of this section, and every person owning or controlling, in whole or in part, any pound or weir, and failing to comply with the requirements of this section, shall forfeit and pay the sum of four hundred dollars to the treasurer of the state for each offence; and any person setting or using, or aiding or assisting in setting or using, any pound, weir or set-net in said river, between the fifteenth day of March and the fifteenth day of June in each year, the meshes whereof are less than five inches in extent, shall also forfeit and pay the sum of four hundred dollars for each offence, and such pounds, weirs and set-nets shall be forfeited to the Commonwealth.

SECT. 4. The mayor and aldermen of any city and the selectmen of any town bordering on the Connecticut River, shall appoint and fix the compensation of one or more suitable persons as fish wardens within their respective cities and towns, who shall make complaint of all offences under this act.

SECT. 5. Chapter one hundred and thirty of the acts of the year eighteen hundred and sixty-eight is hereby repealed. [Approved March 17, 1869.]

[Chapter 172, Acts of 1869.]

AN ACT to regulate the Oyster Fisheries and the Seining of Fish in Cole's River and Lee's River in Swansea.

Oysters in Cole's and Lee's Rivers in Swansea.

SECT. 1. No person shall take any oysters from their beds in Cole's River or Lee's River, within the limits of the town of Swansea, unless he is authorized to take the same in the manner provided by this act.

SECT. 2. Whoever takes any oysters from their beds in Cole's River or in Lee's River, within the limits of the town of Swansea, in violation of the provisions of this act, shall pay a fine of not less than five dollars nor more than fifty dollars and cost of prosecution; and five dollars, to be paid to the complainant, shall be taxed and allowed in addition to all other legal costs, in each case, when a fine is imposed under this act.

Penalty for unlawful taking.

SECT. 3. Any householder who is an inhabitant of the town of Swansea, may take or cause to be taken from said beds, for the use of himself and family, not exceeding two bushels of oysters during any one calendar month; but the selectmen of the town may at all times give permits in writing to any inhabitant of Swansea to take oysters from said beds, in such places, in such quantities and for such uses as they shall express in their permit: *provided*, that such permit shall not interfere with rights and privileges that may have been granted or sold under the authority hereinafter given.

Householders may take two bushels a month.

Selectmen may grant permits to inhabitants to take oysters in specified quantities.

Proviso.

SECT. 4. The town of Swansea, in its corporate capacity, shall have the exclusive right to and control of the residue of the oyster fisheries in Cole's River and in Lee's River, within its limits; and the selectmen of the town, acting in its behalf, shall use all reasonable means to enforce the provisions of this act, and shall have the right, from time to time, to sell to any person, at public or private sale, for any term not exceeding five years, the privilege of taking oysters from their beds therein, at such times and places, and under such regulations as they may in writing permit and designate; and all moneys arising therefrom shall be paid to the treasurer of said town for its use. But at any legal meeting called for the purpose, the town may, by vote, direct the limit and extent to which the selectmen shall thereafter exercise the powers herein conferred. A record of the doings of the selectmen, under the provisions of this act, shall be kept by the town clerk.

Swansea to have exclusive right to oyster fisheries.

May sell right to any person for term not exceeding five years.

Proceeds to be paid into town treasury.

Record to be kept.

SECT. 5. In addition to the penalties herein prescribed, any person who takes oysters from their beds in violation of the provisions of this act, shall be held to pay the town of Swansea treble the value of the quantity so taken, to be recovered in an action of tort.

Additional penalty for taking oysters unlawfully.

SECT. 6. Any deputy-sheriff of the county of Bristol, constable or selectman of Swansea, may, without warrant, arrest any person whom he finds in the act of taking oysters from their beds in violation of the provisions of this act, and detain him in some place of safe keeping until a warrant can be procured against said person upon a complaint for said offence: *provided*, that such detention without warrant shall not exceed twenty-four hours.

Persons unlawfully taking oysters may be arrested without a warrant.

Proviso.

SECT. 7. If a vessel, boat, craft or vehicle of any kind, whether on land or water, is found in the town of Swansea, with oysters on board thereof, taken from their beds in Cole's River or Lee's River; in violation of the provisions of this act,

Vessels may be seized and detained.

any inhabitant of the town of Swansea may seize such vessel, boat, craft or vehicle, and detain the same not exceeding forty-eight hours, in order that it may in that time be attached by due process of law, to satisfy all damages due to said town from the person or persons by whom such oysters were so taken. But if such vessel, boat, craft or vehicle shall not be attached, the person seizing and detaining the same may return it to the place where it was seized, as near as practicable, within said period of forty-eight hours; and the fact that oysters so taken in violation of this act, were on board thereof at the time of the seizure, shall in all cases be a sufficient justification for such seizure and detention: *provided*, that if before any action at law is instituted, the owner or person found in possession of such vessel, boat, craft or vehicle pays such damages to the treasurer of the town of Swansea, the same, with the effects therein, shall be released by the person so seizing, upon being shown the receipt of the treasurer, or other reasonable evidence of such payment.

Proviso,

Provisions of General Statutes relating to licenses to planting, &c., oysters, not changed. Right of native Indians not affected.

SECT. 8. Nothing contained in this act shall be construed to alter or change the provisions of the sixteenth, seventeenth and eighteenth sections of the eighty-third chapter of the General Statutes, relating to granting licenses to plant, grow and dig or take oysters; nor shall it be construed to alter or change the provisions of the fifteenth section of said chapter, relating to the right of native Indians to take shell-fish, as therein provided.

Fish, except menhaden, not to be taken by net or weir.

Penalty.

SECT. 9. No person shall set, draw or use any seine, net or weir for taking fish, except menhaden, in Cole's River, within the limits of the town of Swansea, nor in Lee's River, within the limits of the towns of Swansea and Somerset. Whoever violates the provisions of this section shall pay a fine of not less than fifteen dollars nor more than fifty dollars.

SECT. 10. This act shall take effect upon its passage. [*Approved April 17, 1869.*]

[Chapter 235, Acts of 1869.]

AN ACT for the Protection of Trout in Avery Brook, in the Towns of Charlemont and Heath.

Trout not to be taken from Avery Brook without license.

Penalty.

SECT. 1. Whoever, without a written license from the owners or lessees of Avery Brook, or its tributaries, takes any trout therefrom within the limits of either of the towns of Charlemont or Heath, shall forfeit and pay a fine of twenty-five dollars for every such offence, to be recovered before any trial justice, or in any court of record in the county of Franklin.

Notices of this act and its penalties to be

SECT. 2. The foregoing section shall be without effect unless the owners or lessees aforesaid shall erect and maintain notices of this act and its penalties, painted or engraved in clear, legi-

ble letters; said notices to be erected within one hundred rods of each other, throughout the entire length of said brook and its tributaries, and on or near the banks thereof, within the boundaries of the aforesaid towns. posted by owners of brook.

SECT. 3. Whoever destroys, injures or defaces any such notices so erected, shall forfeit and pay for every such offence a fine of twenty-five dollars, to be recovered in the same manner as provided in section one of this act. Penalty for defacing notices. [*Approved May 6, 1869.*]

ADULTERATED COMMERCIAL FERTILIZERS.

[Chapter 63, Acts of 1869.]

AN ACT to prevent the Manufacture and Sale of Adulterated Commercial Fertilizers.

SECT. 1. Commercial fertilizers sold or kept for sale in this Commonwealth, shall have affixed to every bag, barrel or parcel thereof, a printed label, which shall specify the name of the manufacturer or seller, his place of business and the constituent parts of said fertilizer, together with a statement of the percentage which each constituent part bears to the whole mass. To be labelled with name of manufacturer, &c.

SECT. 2. Whoever manufactures, sells or keeps for sale, commercial fertilizers not labelled in accordance with the provisions of the first section of this act, or who shall affix thereto labels not truly specifying the constituent parts of the fertilizers, shall be punished by a fine of ten dollars for the first and twenty dollars for the second and each subsequent offence. Penalty for selling without label. [*Approved March 10, 1869.*]

INSURANCE BROKERS.

[Chapter 93, Acts of 1869.]

AN ACT concerning Insurance Brokers.

SECT. 1. Whoever acts or aids in any manner in negotiating contracts of insurance, or placing risks, or effecting insurance, for any person other than himself, receiving compensation therefor, and is not the officer, agent or sub-agent of the company or companies in which such insurance is effected, shall be deemed to be an insurance broker. Insurance broker, what constitutes.

Not to act without authority from insurance commissioner.

SECT. 2. No person shall act as an insurance broker until he has procured a certificate of authority so to act, from the insurance commissioner. Such certificate shall authorize the person named therein to negotiate contracts of insurance, or place risks, or effect insurance with any insurance company established in this Commonwealth, or its agents, and with the agents of any insurance company not incorporated in this Commonwealth, which has complied with all of the laws thereof, and is duly authorized to do business therein: *provided*, such agents have duly given bond to make returns and pay taxes, and have complied with all other requirements of said laws.

Proviso.

Whoever assumes to act as an insurance broker otherwise than as aforesaid, shall be held to be an insurance agent, and subject to all the duties, requisitions, liabilities and penalties set forth in the laws relating to such agents.

[NOTE.—For liabilities of Insurance Agents, see chapter 58, General Statutes.]

Certificates of authority to act to terminate April 1, annually.

SECT. 3. The insurance commissioner shall grant certificates of authority as aforesaid, which shall continue in force until the first day of April next after the date thereof, and shall be renewed on said day and annually thereafter.

Fee.

For each certificate so granted, and for each renewal thereof, there shall be collected and paid into the treasury of the Commonwealth, the sum of ten dollars.

Penalty.

SECT. 4. Whoever violates any of the provisions of this act, shall be punished by a fine not exceeding five hundred dollars.

[*Approved March 20, 1869.*]

PETROLEUM AND ITS PRODUCTS.

[Chapter 285, Acts of 1866.]

AN ACT concerning the Manufacture, Storage and Sale of Petroleum and its Products.

Buildings in which petroleum, &c., may be made or kept, how constructed.

SECT. 1. Crude petroleum, or any of its products, may be stored, kept, manufactured or refined, in detached and properly ventilated buildings, specially adapted to the purpose and surrounded by an embankment so constructed as to effectually prevent the overflow of said petroleum or any of its products beyond the premises on which the same may be kept, manufactured or refined; said buildings to be occupied in no part as a dwelling, and if less than fifty feet from any other building, must be separated therefrom by a stone or brick wall at least ten feet high and sixteen inches thick.

SECT. 2. No person shall manufacture, refine, mix, store or keep any oil or fluid composed wholly or in part of any of the products of petroleum, in a greater quantity than five hundred gallons, in any one locality in any city or town in this Commonwealth, except as provided in the first section of this act, without a license first having been obtained from the mayor and aldermen of such city, or the selectmen of such town, and in said license there may be expressed the manner and portion of any locality or building in which said articles may be mixed, stored or kept; and whoever mixes, stores or keeps said articles in a greater quantity than five hundred gallons in any one locality, except as aforesaid, without having first obtained a license as herein required, or having obtained such license, mixes, stores or keeps said articles in a different manner, or in any other portion of said locality or building than is expressed in said license, shall forfeit and pay a sum not exceeding five hundred dollars, to be recovered in any appropriate form of action to be instituted by the city or town where said articles are so mixed, stored or kept; and the license granted in accordance with the provisions of this act, shall continue to be in force from the time of granting the same until the first day of April next succeeding, unless sooner revoked; and said license shall be revokable at all times by the authorities granting the same.

Not over 500 gallons to be in one locality, except as above, without license.

Penalty for violation.

License.

SECT. 3. The city council of any city, or the selectmen of any town, may adopt such rules and regulations, not inconsistent with the provisions of this act, as they may deem reasonable, in relation to the manufacture, mixing, storing, keeping or selling, within the limits of such city or town, of any of said products, and may affix penalties for breaches thereof, not exceeding fifty dollars for each offence, reasonable notice of which shall be given to all concerned.

Municipalities may adopt rules and affix penalties.

SECT. 4. Chapter two hundred and forty-four of the acts of the year eighteen hundred and sixty-five, is hereby repealed.

Repeal.

[*Approved May 29, 1866.*]

[Chapter 286, Acts of 1867.]

AN ACT regulating the Sale of Coal and Petroleum Oils.

SECT. 1. The mayor and aldermen of any city, or the selectmen of any town, where oils are manufactured from coal or petroleum, and the mayor and aldermen of any city and the selectmen of any town where oils are sold but not made, and where five or more inhabitants petition for the same, shall appoint annually one or more suitable persons, not interested in the sale or manufacture of said oils, as inspectors thereof, and fix their compensation, to be paid by the parties requiring the services of said inspectors.

Cities and towns of manufacture or sale shall appoint inspectors and fix pay.

SECT. 2. Every inspector, before entering upon the duties of

Inspector shall be sworn, and

when called act promptly with fire-test.

Penalty for deceit or negligence.

If person mix or so sell naphtha and oils, to ignite under 110° heat, except for re-making.

Liability for damage so caused.

Oils deemed mixed with naphtha defined.

Penalty if person offer naphtha under name of oil.

Prosecution for violating this act; any officer may cause.

Act of 1866, ch. 262, repealed.

his office, shall be duly sworn, and when called upon by any manufacturer, refiner, vendor, purchaser or by any officer mentioned in the sixth section of this act, to test such oils, shall do so with all reasonable despatch, by applying the fire-test, as indicated and determined by G. Tagliabue's pyrometer, or some other instrument equally accurate. Any imposter guilty of fraud, deceit or culpable negligence in inspecting such oils, shall be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail or house of correction not exceeding one month, or both, in the discretion of the court.

SECT. 3. No person shall mix for sale, naphtha and illuminating oils, or shall sell or offer for sale such mixture, or shall sell or offer for sale, except for purposes of re-manufacture, illuminating oils made from coal or petroleum, which will ignite at a temperature of less than one hundred and ten degrees Fahrenheit, to be ascertained by the application of Tagliabue's or some other approved instrument; and any person so doing, shall be held to be guilty of a misdemeanor, and shall for each offence, upon conviction thereof, be liable to the same penalties provided in the second section of this act against inspectors; and shall also be liable therefor to any person suffering damage from the explosion or ignition of such oil thus unlawfully sold, and such oil thus unlawfully sold or kept or offered for sale, and the casks or packages containing the same, shall be forfeited and sold for the purposes of re-manufacture; one-half of the proceeds of such sale to go to the Commonwealth and the other half to the informer.

SECT. 4. For all the purposes of this act, all illuminating oils made from coal or petroleum, having an igniting point of less than one hundred and ten degrees Fahrenheit, to be determined in the manner provided in the third section of this act, shall be deemed to be mixed with naphtha.

SECT. 5. Any person who shall sell, or keep or offer for sale naphtha under the name of oil, shall, for each offence, upon conviction thereof, be liable to the same penalties provided, and shall be subject to the same liabilities set forth, in the second and third sections of this act.

SECT. 6. The selectmen of the towns and the mayors, aldermen and police of the cities in which inspectors are appointed in conformity with the first section of this act, or any one of said officers, within their respective towns and cities, and the members of the state police, or any of them, shall cause all persons violating any of the provisions of this act to be prosecuted therefor.

SECT. 7. Chapter two hundred and sixty-two of the acts of the year eighteen hundred and sixty-six is hereby repealed.

SECT. 8. This act shall take effect upon its passage. [*Approved May 29, 1867.*]

[Chapter 152, Acts of 1889.]

AN ACT to provide for the Storage, Sale and Inspection of Petroleum and its Products.

SECT. 1. The mayor and aldermen of every city, and the selectmen of every town of more than fifteen hundred inhabitants, and of every town of less than fifteen hundred inhabitants upon the written application of five or more citizens of such town therefor, shall appoint, annually, one or more suitable persons, not interested in the sale of crude petroleum, or in the sale or manufacture of petroleum, earth rock oil, or in any of their products, to be inspector or inspectors thereof in said city or town, and fix their compensation, to be paid by persons requiring their services under the provisions of this statute, and who before entering upon the duties of their office shall be duly sworn. Any inspector guilty of fraud, deceit, or culpable negligence in the performance of his duties, shall be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail or house of correction not exceeding one month, or by both, in the discretion of the court.

Inspectors of petroleum to be appointed.

Compensation.

Penalty on inspector for fraud or negligence.

SECT. 2. No person shall mix for sale, naphtha and illuminating oils, or shall sell or offer for sale such mixture, or shall sell or offer for sale, except for purposes of re-manufacture, illuminating oils made from coal or petroleum, which will evaporate a gas under one hundred degrees Fahrenheit, or ignite at a temperature of less than one hundred and ten degrees Fahrenheit, to be ascertained by the application of Tagliabue's or some other approved instrument; and any person so doing shall for each offence be punished by fine or imprisonment, as provided in the first section hereof; and shall also be liable therefor, to any person suffering damage from the explosion or ignition of such oil thus unlawfully sold or kept, or offered for sale; and such oil thus unlawfully sold or kept, or offered for sale, and the casks or packages containing the same, shall be forfeited and sold, one-half of the proceeds of such sale to go to the Commonwealth and the other half to the informer.

Mixture of naphtha and illuminating oils regulated.

Penalty for violation.

Liability in case of explosion, &c.

Oil unlawfully sold to be forfeited.

SECT. 4. For all the purposes of this act, all illuminating oils made from coal or petroleum having an igniting point of less than one hundred and ten degrees Fahrenheit, to be determined in the manner provided in the second section of this act, shall be deemed to be mixed with naphtha, and shall be branded unsafe for illuminating purposes.

Oils unsafe for illuminating purposes to be so branded.

SECT. 4. Any person who shall sell, or keep or offer for sale, naphtha under any assumed name, shall for each offence upon conviction thereof, be liable to the same penalties provided, and shall be subject to the same liabilities set forth in the first two sections of this act.

Penalty for selling naphtha under assumed name.

SECT. 5. Crude petroleum, or any of its products, may be stored, kept, manufactured or refined in detached and properly ventilated buildings specially adapted to the purpose, and sur-

Crude petroleum and its products, how to be stored, &c.

rounded by an embankment constructed so as to effectually prevent the overflow of said petroleum or any of its products beyond the premises on which the same may be kept, manufactured or refined: such buildings to be occupied in no part as a dwelling; and if less than fifty feet from any other building, must be separated therefrom by a stone or brick wall at least ten feet high and twelve inches thick; and any person keeping such articles in any other kind of building, except such as is hereinafter provided in the sixth section hereof, shall be punished by fine or imprisonment, in the manner provided in the first two sections hereof.

SECT. 6. No person shall manufacture, refine, mix, store or keep for sale, any oil or fluid composed wholly or in part of any of the products of petroleum, in any city or town, except as provided in the fifth section of this act, without a license first having been obtained from the mayor and aldermen of said city or the selectmen of said town, and in said license there shall be expressed the manner, and the portion of any locality or building in which said articles may be mixed, stored or kept; and whoever mixes, stores or keeps said articles in any one locality, except as aforesaid, without having first obtained a license as herein required, or having obtained such license, mixes, stores or keeps said articles in a different manner, or in any other portion of said locality or building than is expressed in said license, shall forfeit and pay a sum not exceeding five hundred dollars, to be recovered in any appropriate form of action, to be instituted in the name of the mayor of said city, or of the selectmen of said town; and the license granted in accordance with the provisions of this act shall continue to be in force from the time of granting the same until the first day of April next succeeding, unless sooner revoked; and said license shall be revokable at all times by the authority granting the same.

SECT. 7. Upon complaint made to the justice of any municipal or police court, or to a justice of the peace, by the mayor or by an alderman of any city, or by a selectman of any town, or by an inspector appointed under the provisions of this act, or any engineer of a fire department, fire-ward, chief of police or city marshal, that he has probable cause to suspect, and does suspect, that any of the articles enumerated in this act are offered for sale, or are deposited and kept within the limits of said city or town, contrary to the provisions of this act, said justice or court may issue a warrant directed to any such inspector, engineer or fire-ward, or to any sheriff, deputy-sheriff, constable or police officer, ordering him to enter any shop, warehouse, manufactory, or any other building specified in the warrant, to make diligent search for such article or articles suspected to be so offered for sale, deposited or kept, and to make return of his doings to said justice or court forthwith.

SECT. 8. None of the articles enumerated in this act shall be allowed to remain in any street, lane, alley or travelled way,

Penalty for violation.

Not to be manufactured, stored, &c., without license from municipal authorities.

License to express manner and locality in which such oils may be stored. Penalty for storing, &c., without license, &c.

License to expire annually on first of April, and revocable at all times.

Search warrant may be issued upon complaint of selectmen, &c.

By whom to be served.

Oils not to remain in street, &c., more than

or upon any wharf or in any yard, or on the grounds of any railroad corporation in any city for a longer time than twenty-four hours, and in any town for a longer time than forty-eight hours, without a special permit from the mayor and aldermen of said city, or selectmen of said town, or by some person by them duly authorized; and any and all persons so keeping such articles for a longer period, shall be punished by a fine of not more than fifty dollars for each and every such offence.

24 hours, nor in town more than 48 hours, without special permit, under penalty.

SECT. 9. The city council of any city, and the inhabitants of any town, may adopt such ordinances, by-laws and regulations, not inconsistent with the provisions of this act, as they may deem reasonable in relation to the manufacture, mixing, storing, keeping or selling within the corporate limits of said city or town, any of the articles herein enumerated, and may affix penalties for breaches thereof not exceeding fifty dollars for each offence, reasonable notice of which shall be given to all concerned.

Cities and towns may make regulations and affix penalties.

SECT. 10. Chapter two hundred and eighty-five of the acts of the year eighteen hundred and sixty-six, and chapter two hundred and sixty-six of the acts of the year eighteen hundred and sixty-seven, so far as they are inconsistent with the provisions of this act, are hereby repealed.

Repeal.

SECT. 11. No person shall sell, or keep for sale, or in storage, any crude or refined petroleum, naphtha, kerosene, earth rock, machinery or illuminating oil, in any city or town, without having the same inspected and approved by an authorized inspector. And any person violating the provisions of this section shall be fined and imprisoned in the manner provided in the first section of this act in relation to inspectors.

Oils kept for sale to be approved by an authorized inspector. REPEALED. See Chap. 345, Acts of 1869. Penalty.

SECT. 12. The first and tenth sections of this act shall take effect upon its passage, and the remaining sections thereof sixty days after its passage. [Approved April 10, 1869.]

When to take effect.

[Chapter 345, Acts of 1869.]

AN ACT to amend "An Act to provide for the Storage, Sale, and Inspection of Petroleum and its Products."

SECT. 1. The eleventh section of chapter one hundred and fifty-two of the acts of the year eighteen hundred and sixty-nine, is hereby repealed.

Repeal of Chap. 152, § 11, Acts of 1869.

SECT. 2. No person shall sell or keep for sale at retail, for illuminating purposes, any kerosene, refined petroleum or any product of petroleum, without having the same inspected and approved by an authorized inspector. Any person violating the provisions of this section shall be fined and imprisoned in the manner provided in the first section of chapter one hundred and fifty-two of the acts of the present year. [Approved June 2, 1869.]

Kerosene for illuminating purposes not to be sold without inspection, under penalty.

I N D E X .

[Where "sections" only are referred to, the matter will be found in the first chapter under the subject title.]

Adulterated Commercial Fertilizers.

C

Constituent parts of fertilizers to be given. Sect. 1.

P

Printed label required containing name. Sect. 1.

Penalty, neglect to affix label. Sect. 2.

affixing false label. Sect. 2.

keeping for sale or selling without label. Sect. 2.

Billiards and Bowling.

K

Keeping tables for hire without license. Sect. 70.

L

Licenses to keep Billiards for hire. Sect. 69.

\ may be revoked at pleasure. Sect. 69.

M

Minors not admitted, except, etc. Sect. 71.

O

Officers may enter to enforce the laws. Sect. 72.

Obstructing officers in entering. Sect. 72.

P

Penalty, keeping Billiards without license. Sect. 70.

admitting minor without consent, etc. Sect. 71.

obstructing officer in entering, Sect. 72.

keeping bowling-alley without license. Sect. 70.

Cruelty to Animals.**A**

Arrests without warrant, how made. Sect. 4.
 Animal and owner, what held to include. Sect. 6.

C

Cruelly beating and mutilating, how punished. Sect. 1.
 Carrying in cruel and inhuman manner. Sect. 2.
 by railroad companies. Sect. 3.

F

Failing to provide food, drink, etc, how punished. Sect. 1.
 Fines, how disposed of specially. Sect. 7.

J

Jurisdiction of Courts. Sect. 8.

O

Overdriving, tormenting, etc., how punished. Sect. 1.
 Owner, permitting cruelty, etc. Sect. 2.
 Officers, duty of to prosecute. Sect. 7.
 arresting without warrant, to give notice, etc. Sect. 4.
 to give proper care to animals detained. Sect. 4.
 have lien on animals for care and provisions. Sect. 4.

P

Penalty for cruelly beating and mutilating. Sect. 1.
 for permitting cruelty, etc. Sect. 2.
 for cruelly carrying animals. Sects. 1-2.
 for working animals unfit to work. Sects. 1-2.
 for overdriving, tormenting, etc. Sect. 1.
 for not providing food, shelter, etc. Sect. 1.
 violations of law by railroad companies. Sect. 3.

R

Railroad Companies may charge expense feeding, etc. Sect. 3.
 retain lien on animals. Sect. 3.
 providing food, etc., in cars, need not unload. Sect. 3.

S

Search Warrants, when and how issued. Sect. 5.

W

Working animals unfit for work. Sect. 2.

Common Nuisances.**B**

Booths near public shows, how removed. Sect. 10.
 Buildings resorted to for prostitution, etc., what deemed. Sect. 6.

F

Force, civil or military, to abate nuisances. Sect. 10.

J

Jurisdiction of Police Courts, etc. Chap. 78, sect. 1, 1863.

L

Lease of building, when void. Sect. 8.

O

Owner neglecting to eject, guilty of aiding, etc. Sect. 9.
may immediately enter on leased premises. Sect. 8.

P

Penalty, limitation of in final jurisdiction. Chap. 78, sect. 2, 1863.
when sentenced to fine only. Chap. 269, sect. 1, 1865.
for keeping common nuisance. Sect. 7.
for letting building, etc., used illegally. Sect. 9.

T

Tenements, etc., used for prostitution, gaming, etc., what deemed. Sect. 6.

W

What shall be deemed common nuisance. Sect. 6.

Exhibiting Fighting Birds and Animals.**E**

Establishing, etc., exhibition of fighting birds, etc. Sect. 79.
Expense of keeping birds, etc., to be paid. Chap. 435, sect. 4, 1869.

F

Forfeiture of birds or animals in court. Chap. 435, sect. 2, 1869.

O

Officer may enter and arrest without warrant. Chap. 435, sect. 1, 1869.
may seize all birds or animals without warrant. Chap. 435, sect. 1, 1869.
may arrest all persons present. Chap. 435, sect. 1, 1869.

P

Persons present at exhibitions of fighting birds, etc. Sect. 79.
Penalty for promoting exhibition, etc. Sect. 79.
for keeping or training birds, etc., for fighting. Chap. 435, sect. 5, 1869.
for being present at exhibition, etc. Chap. 435, sect. 6, 1869.

S

Seizure of birds, etc., without warrant. Chap. 435, sect. 1, 1869.

Employment of Children, Etc.**C**

- Children under ten shall not be employed. Chap. 285, sect. 1, 1867.
 between ten and fifteen not employed, except. Chap. 285, sect. 1, 1867.
 to attend school. Chap. 285, sect. 1, 1867.
 under fifteen not to work over 60 hours per week. Chap. 285, sect. 2, 1867.
 Constable of Commonwealth to enforce law. Chap. 285, sect. 4, 1867.
 to report annually to Governor. Chap. 285, sect. 4, 1867.
 Commitment of Truants. Chap. 207, sect. 2, 1862.

P

- Penalty, owner, etc., of mill, etc., for violation of law. Chap. 285, sect. 3, 1867.
 parent or guardian violation of law. Chap. 285, sect. 3, 1867.

T

- Towns and Cities shall make provisions regarding truants. Sect. 4.

Felonies, Accessories, Abettors, Etc.**A**

- Attempts to commit offences punishable. Sect. 8.
 to commit offence punishable with death. Sect. 8.
 by life imprisonment. Sect. 8.
 by term of years. Sect. 8.

F

- Felony, definition of. Sect. 1.
 indictment for not to be quashed. Sect. 2.
 accessory before fact punished as principal. Sect. 3.
 Aiders and abettors held as principals. Sect. 3.
 Accessories before fact, how tried. Sect. 4.
 where tried, Sect. 5.
 Accessory after fact, defined. Sect. 6.
 how and where tried. Sect. 7.

Fisheries, Etc.**A**

- Avery Brook, etc., protection of trout in. Chap. 235, 1869.

B

- Black Bass, catching of, limited. Chap. 59, 1862.
 Barnstable North Shore, taking shell-fish. Chap. 258, 1867.

C

- Connecticut River, Shad fishing limited. Chap. 62, 1864.
 Obstructing passage of fish in. Chap. 238, 1866.
 Regulating fishery in. Chap. 76, 1869.
 Cole's River, Swansea, fisheries regulated. Chap. 172, 1869.
 Charlemonst and Heath, etc., protection of trout in. Chap. 235, 1869.

G

Grist Mill Pond, Wareham, protection of trout in. Chap. 110, 1868.

I

Indians may fish for special purposes. Chap. 83 G. S., sect. 15.

Ipswich River, etc., re-stocking for three years. Chap. 157, 1868.

J

Jones' Mill Creek, Barnstable, protection of trout in. Chap. 290, 1868.

L

Licenses to plant Oysters, how granted. Chap. 83 G. S., sect. 16.

to be recorded, and fee for same. Chap. 83 G. S., sect. 17.

rights granted therein. Chap. 83 G. S., sect. 18.

Lee's River, Swansea, fisheries regulated. Chap. 172, 1869.

M

Maple Spring Pond, protection of trout in. Chap. 58, 1862.

Marshpee, protection of fisheries in. Chap. 46, 1860.

trout fishing protected in. Chap. 150, 1864.

Mattapoisett, seining in regulated. Chap. 259, 1864.

Merrimack River, obstructing passage of fish in. Chap. 238, 1866.

Mystic River and Pond, re-stocking of. Chap. 149, 1867.

seines or weirs found in, may be destroyed. Chap. 149, 1867.

penalty for placing substances in, injurious to fish. Chap. 128, 1868.

Monument River, Oyster fishing in, protected. Chap. 237, 1867.

Merrill Pond, Wendell, protection of trout in. Chap. 289, 1868.

N

Nye's Pond, Sandwich, protection of trout in. Chap. 94, 1862.

P

Poisoning fish with cockle, etc. Chap. 83 G. S., sect. 1.

Pickarel or trout, catching of limited to dates. Chap. 83 G. S., sect. 2.

caught only with hooks or lines. Chap. 83 G. S., sect. 2.

prosecutions for catching, etc., limited. Chap. 83 G. S., sect. 3.

Permits may be given by mayors and selectmen. Chap. 83 G. S., sect. 12.

Purchase or possession of black bass or trout held evidence. Chap. 249, 1866.

Penalty for poisoning fish. Chap. 83 G. S., sect. 1.

for catching pickarel or trout illegally. Chap. 83 G. S., sect. 2.

for taking lobsters, etc., in Fairhaven, etc. Chap. 83 G. S., sect. 4.

carrying off lobsters, etc., from sea-coast. Chap. 83 G. S., sects. 6, 7 & 8.

taking lobsters in Sandwich, etc. Chap. 83 G. S., sect. 10.

taking lobsters and obstructing their growth. Chap. 83 G. S., sect. 11.

taking shell-fish, etc. Chap. 83 G. S., sect. 13.

catching black bass illegally. Chap. 59, 1862.

catching smelts illegally. Chap. 179, 1868.

S

Shad fishing in Connecticut River protected. Chap. 62, 1864.

Smelts, time for catching limited. Chap. 179, 1868.

Smelts, to be caught only by hook, lines or hand nets. Chap. 179, 1868.
 catching of in Dukes County. Chap. 75, 1869.
 Shell-fish, catching of in Chatham, etc., limited, etc. Chap. 83 G. S., sect. 19.

T

Trout, etc., catching limited to certain dates. Chap. 83 G. S., sect. 2.
 catching of illegally, how punished. Chap. 83 G. S., sect. 2.

V

Vessels with Oysters, etc., when may be seized. Chap. 83 G. S., sect. 14.

W

Winchester, fishing regulated in. Chap. 234, 1864.
 Wenham Pond, re-stocking of for three years. Chap. 157, 1868.

Gaming.**A**

Arrests without warrant, public conveyances. Chap. 382, 1869.

B

Billiard tables, etc., use of for unlawful games forbidden. Sect. 6.
 Buildings used for gaming, common nuisances. Chap. 87, sect. 6.
 Booths, etc., used for gaming within one mile of muster, etc. Chap. 87, sect. 10.
 Balance received on sale of gaming furniture paid to county. Chap. 364, sect. 3, 1869.
 Betting on games in public conveyances. Chap. 382, 1869.

C

Common gaming-house may be entered and parties arrested. Sect. 8.
 Civil authorities may employ force to remove booths, etc. Chap. 87, sect. 10.

D

Double the value forfeit by winner of \$5 or more. Sect. 3.

F

Furniture, fixtures, etc., may be seized. Chap. 364, sect. 2, 1869.
 etc., forfeited, and how disposed of. Chap. 364, sect. 3, 1869.
 Force may be used in removing booths, etc. Chap. 87, sect. 10.

G

Gaming within one mile of muster. Sect. 9.
 for money forbidden in public conveyances. Chap. 382, 1869.

I

Implements of gaming may be taken on warrant. Sect. 9.

K

Keepers of gaming-houses and players to be arrested. Sect. 8.

L

Loans for money won gaming or betting, void, etc. Sect. 4.
 Lease of gaming building, null and void. Chap. 87, sect. 8.

M

Money lost gaming may be recovered. Sect. 1.

N

Notes, bills, etc., for money lost gaming, void, except. Sect. 4.

O

Owner, etc., of gaming-house liable for losses. Sect. 2.

Obtaining money by gaming punished as larceny. Chap. 161, sect. 57.

P

Persons losing money must prosecute within three months. Sect. 1.

gaming within one mile of muster arrested summarily. Sect. 9.

present at game may be arrested. Chap. 364, sect. 1, 1869.

gaming in public conveyances, arrested summarily. Chap. 382, 1869.

Penalty for winning \$5 or more. Sect. 3.

innholders keeping gaming implements. Sect. 5.

suffering gaming on their premises. Sect. 5.

gaming in bowling-alleys or billiard rooms. Sect. 6.

gaming in places kept by innholders and victuallers. Sect. 6.

keeping common gaming house. Sect. 7.

gaming within one mile of muster, etc. Sect. 9.

for maintaining common nuisance. Chap. 87, sect. 7.

for knowingly letting building for gaming. Chap. 87, sect. 9.

on conviction of being present at gaming. Chap. 364, sect. 1, 1869.

playing for money in public conveyances. Chap. 382, 1869.

gaming for money in public conveyances. Chap. 382, 1869.

S

Suits for money lost gaming, brought by any person. Sect. 1.

Search Warrant for gaming implements. Chap. 170, sect. 2.

includes furniture, fixtures, etc. Chap. 364, sect. 2, 1869.

T

Treble value of property lost gaming recoverable. Sect. 1.

Tenant, etc., of gaming house liable for property lost. Sect. 2.

W

Winner at game may be sued for loss. Sect. 1.

may be punished as in larceny. Chap. 161, sect. 57.

Hawkers and Peddlers.**A**

Articles, what sold without license. Sect. 13.

Auctioneers to sell in towns covered by license. Sect. 28.

Articles of foreign growth, sale of only by license. Chap. 178, 1862.

Articles prohibited from license for sale. Sect. 15.

Appropriation of money received for licenses. Sect. 22.

D

Disabled Soldiers and Sailors exempt from payment of fees. Chap. 197, 1866.

J

Jurisdiction, Police Courts and Trial Justices. Chap. 12, 1868.

L

License for State, how granted. Sect. 16.
for city and town, how granted. Sect. 17.
for city and town, fees for. Sect. 18.
special, State and county, how granted. Sect. 20.
may be transferred. Sect. 23.
when void. Sect. 25.
to bear date the day of issue. Chap. 151, 1864.
special State, fee required. Chap. 151, 1864.

M

Minors, cities and towns may regulate sales by. Sect. 14.

O

Officers to prosecute violations of law. Chap. 151, 1864.

P

Persons licensed to post name and show license. Sect. 24.
licensed to sell only articles permitted. Sect. 25.
Penalty for selling without license. Sect. 27.
for counterfeiting license. Sect. 26.
for using license expired. Sect. 26.
for peddling under license not transferred. Sect. 26.
one-half of to go to complainant. Chap. 151, 1864.

R

Residents, etc., licensed without fee. Sect. 19.
Records of licenses, how kept. Sect. 21.

S

Sums received for licenses, how appropriated. Sect. 22.

Insurance Brokers.**B**

Brokers, who are Insurance. Sect. 1.

C

Commissioner of Insurance issues certificates. Sect. 2.
Certificates of authority to be issued by Commissioner. Sect. 3.
expires on first day of April. Sect. 3.

F

Fee of ten dollars for each certificate. Sect. 3.

P

Persons shall not act without authority. Sect. 2.
Penalty for violation of law. Sect. 4.

Intoxicating Liquors.

A

- Adulteration of liquors prohibited. Chap. 415, sect. 5, Acts of 1869.
- Authority to manufacture liquors. Sect. 12.
- Agents, city and town, for sale of liquors. Sects. 17, 18, 19, etc.
- Assayers of liquors, appointments of, etc. Sects. 25, 26.
- Action for payment of liquors not maintainable, etc. Sect. 63.
 - against officer, when not maintainable. Sect. 64.
- Arrest of person selling, without warrant. Sect. 57.

B

- Bond required for manufacture. . Sect. 13.

C

- Commissioner, how appointed, etc. Sect. 1.
 - to give bond. Sect. 2.
 - to keep place of business in Boston. Sect. 3.
 - sales of to be for cash. Sect. 3.
 - to keep record of purchase and sales. Sect. 4.
 - shall affix seals to all packages. Sect. 4.
 - shall make annual reports. Sect. 8.
 - shall appoint agents in Boston. Sect. 9.
- Common Seller, penalty for being. Sect. 33.
 - second violation, etc. Sect. 33.
 - three sales to constitute. Sect. 33.
- Complaint, etc., may include several offences. Sect. 34.
- Conveying from place to place and bringing into State. Sect. 39.
- Claimant of liquors seized, may appear. Sect. 51.
 - failing in his claim shall pay cost, except. Sect. 54.
 - to be committed for non-payment of costs. Sect. 54.
 - may appeal. Sect. 55.
- Constable, what held and construed to mean. Chap. 442, 1869.

D

- Delivery of liquor held evidence of sale, except. Sect. 35.
 - from dwelling-house with pay or promise of pay. Sect. 35.
- Drunken persons may be arrested. Sect. 42.
 - may disclose, etc., when arrested. Sect. 43.

E

- Employee held liable with principal. Sect. 32.
- Execution against claimant for cost. Sect. 54.

F

- Forfeiture of liquors under twenty dollars in value. Sect. 51.
 - over twenty dollars in value. Sect. 56.
- Forfeited liquors to city or town agent. Sect. 52.
 - to be destroyed. Sect. 52.
- Forms provided, if substantially followed, etc. Sect. 66.

I

- Importation of liquors by Commissioner. Sect. 7.
- Intoxicating liquors, what to be considered. Sect. 30.

J

Judges to see the provisions of law enforced. Sect. 60.

K

Keeping liquor with intent to sell. Sect. 31.

L

Liquors to be analyzed. Sect. 3.

Liquor Sales, specially authorized. Sects. 27, 28, 29.

Liquor seized, when to be returned. Sect. 53.

 illegally transported, seized without warrant. Sect. 57.

 seized without warrant in act of illegal sale. Sect. 57.

 at public gatherings. Sect. 58.

Liquor cases have precedence in court, except. Sect. 60.

Liquors for illegal sale and vessels, held common nuisances. Sect. 62.

M

Manufacture, how regulated. Sects. 14, 15, 16.

 of liquor illegally, penalty for. Sect. 33.

N

Notice, what, and how issued. Sects. 48, 49, 50, 56.

Nolle prosequi, how entered in court. Sect. 60.

No case laid on file, etc., except, etc. Sect. 60.

O

Officers shall make complaint on disclosal, etc. Sect. 43.

 to arrest for illegal sales at public gatherings. Sect. 58.

 executing warrants, protected, etc. Sect. 64.

 liable for refusing or neglecting duty. Sect. 64.

 to be indemnified by State for damages, etc. Sect. 64.

P

Penalty for selling adulterated liquors. Sect. 6.

 for unlawful sales. Sect. 32.

 for illegal single sale. Sect. 32.

 for being common seller. Sect. 33.

 for keeping with intent to sell. Sect. 36.

 for receiving liquor for conveyance. Sect. 37.

 for violation by railroad corporation and servants. Sect. 38.

 for bringing liquor into State. Sect. 39.

 for conveying from place to place. Sect. 39.

 for selling to certain persons after notice. Sect. 40.

Profits of Commissioner, how disposed of. Sect. 7.

Persons notified not to sell, etc., liable for damages. Sect. 40.

 illegally selling liable for damages by drunken persons. Sect. 41.

 arrested drunk, may disclose, etc. Sect. 43.

 complained against may appear, etc. Sect. 51.

 illegally selling arrested without warrant. Sect. 57.

 transporting arrested without warrant. Sect. 57.

 convicted shall enter into recognizance. Sect. 59.

Prosecution for drunkenness, how discontinued. Sect. 43.

Payments for liquor illegally sold, without consideration. Sect. 63.

R

- Receiving liquor for illegal conveyance. Sect. 37.
Railroad Corporations, liabilities of. Sect. 38.
Recognizances forfeited, to be sued within sixty days. Sect. 61.
Repeal of preceding chapters. Sect. 65.

S

- Salary of Commissioner. Sect. 7.
Search Warrants for liquors upon complaint. Sect. 44.
 for dwelling-house, how issued. Sect. 45.
 must particularly designate the place. Sect. 46.
 how served by officer. Sect. 47.
 liquors less than twenty dollars. Sect. 48.
 exceed twenty dollars. Sect. 56.
Seizure of liquor without warrant. Sect. 57.

U

- Unauthorized sales forbidden. Sect. 30.

Lotteries.**A**

- Advertising lottery tickets for sale. Sect. 50.

D

- Defendant in lottery prosecution may show ticket genuine and true. Sect. 7.

E

- Exhibiting representation of lottery. Sect. 5.

M

- Making or selling tickets in fictitious lottery. Sect. 6.
Mayor or Selectmen may lay out Race grounds. Sect. 10.

P

- Penalty for disposing property by lottery, gift, etc. Sect. 1.
 for racing on bet or wager. Sect. 9.
 for setting up the lottery, managed without the State. Chap. 112, sect. 1, 1869.
 for aiding in lottery managed out of the State. Chap. 112, sect. 2, 1869.
Permitting lottery in house, shop, etc. Sect. 2.
Prizes, etc., forfeited to the State. Sect. 8.

R

- Racing for bet or wager unlawful. Sect. 9.
Race grounds, except, declared common nuisances. Sect. 11.
Regulation, etc., of race grounds. Sect. 10.

S

- Setting up lotteries, gifts, etc. Sect. 1.
Selling or aiding in selling lottery tickets. Sect. 3.
Second conviction for engaging in lotteries. Sect. 4.

Lord's Day.**B**

Bail may be taken on Lord's Day. Chap. 170, G. S., sect. 38.

C

Civil process, service or execution of Lord's Day forbidden. Chap. 84, G. S., sect. 6.

D

Discharging fire-arms for sport, etc. Chap. 253, 1865.

F

Fishing forbidden Lord's Day. Chap. 253, 1865.

G

Games, sport, play, forbidden Lord's Day. Chap. 84, G. S., sect. 1.

I

Innholders liability of Saturday or Sunday evenings. Chap. 84, G. S., sect. 5.
Indecency, etc., in house of public worship. Chap. 84, G. S., sect. 7.

*** K**

Keepers of shop, etc., to entertain only travellers, etc. Chap. 79, 1864.

L

Labor prohibited on Lord's Day. Chap. 84, G. S., sect. 1.

P

Present at show, dance, etc. Chap. 84, G. S., sect. 1.
game on Lord's Day. Chap. 152, 1862.

game, sport, etc., evening of, etc. Chap. 84, G. S., sect. 4.

game, sport, etc., evening next preceding. Chap. 84, G. S., sect. 4.

Persons committed on Lord's Day may be bailed. Chap. 170, G. S., sect. 38.

observing Saturday as the Sabbath. Chap. 84, G. S., sect. 9.

keeping places of entertainment, liable, etc. Chap. 84, G. S., sect. 11.

serving writs, etc., liable to damages. Chap. 84, G. S., sect. 6.

Prosecutions to be instituted within six months. Chap. 84, G. S., sect. 10.

Pursuit of game, etc., forbidden. Chap. 253, 1865.

Prosecutions, discharging fire-arms and fishing, to be within 30 days. Chap. 253, 1865.

Penalty, present at sport, game, etc. Chap. 84, G. S., sect. 1.

taking part in game, etc. Chap. 84, G. S., sect. 1.

being present at game, evening of, etc. Chap. 84, G. S., sect. 4.

next preceding. Chap. 84, G. S., sect. 4.

travelling unless from necessity or charity. Chap. 84, G. S., sect. 2.

entertaining other than travellers, etc. Chap. 79, 1864.

increased under Chap. 84, G. S., sect. 1. Chap. 143, 1863.

Innholders who offend. Chap. 84, G. S., sect. 11.

rude and indecent conduct in house of worship. Chap. 84, G. S., sect. 7.

second and third convictions of Innholders. Chap. 84, G. S., sect. 11.

for each person entertained. Chap. 79, 1864.

discharging fire-arms, sport or gaming. Chap. 253, 1865.

fishing on Lord's Day. Chap. 253, 1865.

S

Seventh day may be observed as Sabbath. Chap. 84, G. S., sect. 9.
 Sheriffs and other officers to inquire into offences. Chap. 84, G. S., sect. 8.

T

Travelling except from necessity, etc., prohibited. Chap. 84, G. S., sect. 2.
 Time included in Lord's Day. Chap. 84, G. S., sect. 12.

W

Writ, service of, on Lord's Day, void. Chap. 84, G. S., sect. 6.

Offences against the Currency.

A

Altering, etc., bank bill or promissory note. Sect. 4.
 Advertisements, bills, etc., resembling bank bills. Sect. 26.

C

Counterfeit bills, ten or more in possession with intent. Sect. 5.
 Common utterer of counterfeit bills. Sect. 7.
 Counterfeit bills, having possession with intent. Sect. 8.
 Counterfeiting coin. Sect. 14.
 ten or more in possession, with intent. Sect. 14.
 less than ten in possession, with intent. Sect. 15.
 uttering or passing as true. Sect. 15.
 second conviction. Sect. 16.
 three convictions at same term. Sect. 16.
 making, possession of tools for making, with intent. Sect. 17.

F

Forgery of records, etc., of public officers. Sect. 1.
 of receipt, bill of exchange, etc. Sect. 1.
 Forged deeds, etc., uttering of. Sect. 2.
 Forging note, etc., of Treasurer of State. Sect. 3.
 bank bill or promissory note. Sect. 4.
 Fictitious signature, etc., deemed forgery. Sect. 12.
 Fraudulently connecting parts of several bank notes. Sect. 21.

I

Issuing or passing notes as currency, except. Sect. 18.
 small notes as currency. Sect. 19.
 Imitation of U. S. Treasury notes, prohibited. Chap. 63, 1862.

M

Making and having possession of counterfeiting tools. Sect. 9.
 Malicious injury to bank bills. Sect. 22.
 gathering up bank bills to injure circulation. Sect. 23.

O

Officers to seize counterfeit notes, coins, etc. Sect. 27.

P

- Passing, tendering in payment as true, counterfeit note, etc. Sect. 6.
 Penalty, gathering bank bills to injure circulation, etc. Sect. 23.
 possession of uncurrent and worthless bills, with intent. Sect. 24.
 forging record or certificate, etc., of court or officer. Sect. 1.
 forging bill of exchange, indorsement, etc. Sect. 1.
 uttering, passing forged deed, instrument, etc. Sect. 2.
 forging notes of State Treasurer. Sect. 3.
 forging bank bill or notes. Sect. 4.
 having in possession ten or more counterfeit bills. Sect. 5.
 passing counterfeit bills or forged notes. Sect. 6.
 second conviction for passing forged notes, etc. Sect. 7.
 having possession counterfeit bills, etc., with intent. Sect. 8.
 making or having tools for counterfeiting. Sect. 9.
 counterfeiting coin, etc. Sect. 14.
 uttering counterfeit coin. Sect. 15.
 second conviction passing counterfeit coin. Sect. 16.
 making, mending, etc., tools for counterfeiting coin. Sect. 17.
 passing notes as currency. Sect. 18.
 passing small notes as currency. Sect. 19.
 circulating fractional bills. Sect. 20.
 fraudulently connecting parts of several bills. Sect. 21.
 wilful injury to bank bills. Sect. 22.
 passing worthless and uncurrent bills. Sect. 25.
 printing and uttering shop bills in similitude of bank bills. Sect. 26.
 printing, passing, etc., shop bills imitating U. S. bills or notes. Chap. 63,
 1862.

R

- Receiving fractional bills. Sect. 20.
 Remuneration to prosecutor of forgers, counterfeiters, etc. Sect. 28.

S

- Sworn certificates of certain officers made evidence. Sect. 11.

T

- Testimony of Bank President, etc., dispensed with, etc. Sect. 10.

U

- Uttering forged records, deed, instrument, etc. Sect. 2.
 shop bills in similitude of bank bills. Sect. 26.
 shop bills in similitude of U. S. notes, etc. Chap. 63, 1862.
 worthless and uncurrent bills, etc. Sect. 25.
 false, forged or counterfeit note, etc. Sect. 6.

V

- Variance, what shall not be deemed, in evidence of fraud, etc. Sect. 13.

W

- Worthless bills, having possession, five or more. Sect. 24.
 uttering or passing as true. Sect. 25.

Offences against Property.

A

- Allowance to officer and prosecutor on conviction. Sect. 32.
to officer, etc., when bail forfeited or escape made. Sect. 33.
Averment of prior conviction of thief unnecessary, etc. Sect. 45.

B

- Burning dwelling-house. Sect. 1.
public building in night time. Sect. 2.
in night, stable, shop, etc., within curtilage, etc. Sect. 2.
in day time a public or private building. Sect. 3.
buildings of less value than \$1,000. Sect. 4.
ship, bridge, lock, etc. Sect. 4.
wood, fences, trees, grain, etc. Sect. 5.
property to injure insurers. Sect. 7.
brushwood between April 1st, and October 1st. Sect. 90.
Burglary, being armed or making assault. Sect. 10.
Breaking and entering in night time armed, etc. Sect. 10.
with intent, not armed. Sect. 11.
building or ship, with intent. Sect. 12.
Breaking and entering in day time, with intent. Sect. 13.
without putting in fear. Sect. 14.
Beast or bird, larceny of. Sect. 30.
Burying and concealing stolen goods. Sect. 43.
Baggage-master, etc., liable for damage to baggage. Chap. 307, 1869.

C

- Cutting bell-rope within twenty-four hours of fire. Sect. 8.
rope at fire, etc., preventing alarm, etc. Sect. 9.
Concealing, etc., stolen goods. Sect. 43.
Common receiver stolen goods. Sect. 47.
embezzled goods. Sect. 47.
Corporation books used as evidence. Sect. 52.
Conveying encumbered land without notice. Sect. 59.
Concealing or removing mortgaged property. Sect. 61.
Collateral, sold, etc., before debt is due. Sect. 64.
Consignee, etc., fraudulently depositing, etc., property. Sect. 65.
Concealing, etc., property held as collateral. Chap. 127, 1865.
will, codicil, etc. Sect. 19.

D

- Destroying, etc., will, codicil, etc. Sect. 19.
Driving horse, etc., without consent of owner. Sect. 48.

E

- Entering without breaking, day time, with intent. Sect. 13.
dwelling-house, night time, with intent, without, etc. Sect. 14, chap. 386,
1869.
Embezzlement, when simple larceny. Sect. 35.
or fraud by persons in State Treasury. Sect. 36.
by town or county officers. Sect. 37.
agents, clerks and servants. Sect. 38.

- Embezzlement by officers of incorporated banks. Sect. 39.
 - by accomplice, deemed taking by officer. Sect. 40.
 - by carriers and others. Sect. 41.
 - particulars need not be in indictment. Sect. 42.
- Embezzled property, buying, etc., concealing, etc. Sect. 46.
 - second conviction for aiding in concealing. Sect. 47.
- Evading toll on toll-bridge. Sect. 75.
- Explosive substance, thrown into dwelling-house, etc. Sect. 69.

F

- Fraudulently issuing or transferring stock. Sect. 50.
- False pretences, obtaining property by. Sect. 54.
 - representation of means to pay; not criminal. Sect. 54.
- Forging, etc., private labels and trade marks. Sect. 55.
- Fitting out vessels with intent to destroy. Sect. 77.
- False invoices of cargo to defraud insurer. Sect. 78.
 - list of property to assessors. Chap. 190, 1869.

G

- Goods stolen secured by officer making arrest. Sect. 31.
- Gross fraud or cheat at common law. Sect. 58.

H

- Hackmen, etc., liable for damage to baggage. Chap. 307, 1869.
- Hirer of personal property selling without consent. Sect. 63.

I

- Injuring engine, hose, etc., within twenty-four hours of fire. Sect. 3.
 - school-house and furniture thereof. Sect. 67.
 - church and its furniture, etc. Sect. 67.
 - house, etc., by explosion gun powder. Sect. 68.

J

- Jurisdiction in matters of Realty. Sect. 27.
 - of courts, cases of trespass. Chap. 321, 1868.

K

- Killing pigeons by taking in nets, except, etc. Sect. 87.

L

- Larceny from the person. Sect. 17.
 - of property exceeding \$100 in value. Sect. 18.
 - of property less than \$100 in value. Sect. 18.
 - of will, codicil, etc. Sect. 19.
 - of property not over \$5 in value. Sect. 21.
 - second conviction of, etc. Sect. 22.
 - bank bill paper, with intent. Sect. 23.
 - of things attached to the realty. Sect. 25.
 - accessory to attached to the realty. Sect. 26.
 - from realty may be from one or more tenants. Sect. 28.
 - from whom cannot be committed. Sect. 29.
 - one or more heirs. Sect. 28.
 - person unknown. Sect. 28.

- Larceny of beast or bird. Sect. 30.
 (simple) by embezzlement. Sect. 35.
 Lessee, etc., of personal property selling without consent. Sect. 63.

M

- Making, mending, etc., burglarious instruments. Sect. 34.
 false entries with intent. Sect. 51.
 Mortgaged property, concealing or removing. Sect. 61.
 Mortgagor selling without consent mortgagee. Sect. 62.
 Maliciously destroying monuments, guide-boards, etc. Sect. 66.
 extinguishing lamp on streets. Sect. 66.
 destroying railing, posts, etc., on streets. Sect. 66.
 defacing, etc., school-house, church, etc. Sect. 64.
 injury to school-house, church, etc. Sect. 67.
 injury to house by exploding gunpowder. Sect. 68.
 throwing explosive substances into house, etc. Sect. 69.
 throwing oil of vitrol, coal tar, etc., into house, etc. Sect. 69.
 injury to dams, reservoirs, canals, etc. Sect. 72.
 injury to ice taken as merchandise. Sect. 73.
 injury to bridge, turnpike, gate, etc. Sect. 74.
 killing, maiming, poisoning cattle. Sect. 80.
 injuring fruit and ornamental trees, etc. Sect. 82.
 opening, etc., gate, bars, fence, etc. Sect. 82.
 destroying trees in orchard, gardens, etc. Sect. 83.
 injury to personal property of another. Sect. 85.
 injury to books, plates, etc., of law or private library. Chap. 69, 1867.
 Making or procuring false affidavit or protest. Sect. 79.
 Malicious trespassers, arrested Lord's Day without warrant. Sect. 86.
 injuries to real estate. Chap. 160, 1862.

O

- Officer who arrests for larceny shall recover goods. Sect. 31.
 allowed recompense, etc., when escape made. Sect. 33.
 Omitting to make entries with intent. Sect. 51.
 Obtaining property by false pretences. Sect. 54.
 by gaming, tricks, etc. Sect. 57.
 goods with intent to defraud. Chap. 248, 1863.

P

- Printers retaining bank bill paper with intent. Sect. 24.
 Property obtained by falsely personating another. Sect. 53.
 Penalty for gross fraud or cheat at common law. Sect. 58.
 one-half of, for burning brushwood, coal-pits, etc., goes to town. Sect. 91.
 trespass from April 1, to November 1. Chap. 89, 1862.
 for malicious trespass. Chap. 321, 1863.
 for falsely stamping thread. Chap. 120, sect. 2, 1869.
 for neglecting to stamp thread. Chap. 120, sect. 2, 1869.
 selling thread not stamped. Chap. 120, sect. 3, 1869.
 false list of property to Assessors. Chap. 190, 1869.
 wilful injury to baggage. Chap. 307, 1869.
 Passing toll-bridge without paying toll. Sect. 75.
 Penalty, entering dwelling-house in night time. Chap. 386, 1869.
 breaking and entering, day time, with intent. Chap. 386, 1869.

R

- Receiving and buying stolen goods. Sect. 43.
- Raising water to injury of mill. Sect. 71.
- Receiving goods with guilty knowledge. Chap. 248, 1863.
etc., property held as collateral. Chap. 127, 1865.

S

- Stealing in building, ship, etc. Sect. 15.
at a fire. Sect. 16.
- Stolen property, effect of restitution of. Sect. 44.
- Stock, issuing of, beyond amount authorized. Sect. 49.
fraudulently issuing or transferring stock. Sect. 50.
- Selling goods having forged stamps, etc. Sect. 56.
attached goods without giving notice. Sect. 60.
personal property without consent of owner, etc. Sect. 63.
- Stealing fruit from orchard, nursery or garden. Sect. 83.
cranberry meadow. Sect. 83.
- Setting fire to coal-pits in New Bedford, etc. Sect. 89.

T

- Trespass by killing or frightening pigeons. Sect. 87.
- Thread on spools or packages to be stamped. Chap. 120, 1869.

U

- Unlawful taking boat, etc., driving away horse, etc. Sect. 48.

W

- Wife liable for burning property of husband. Sect. 6.
- Wilfully destroying vessel to defraud owner or insurer. Sect. 76.
- Wilful trespass by cutting timber, wood, grain, etc. Sect. 81.
by entering garden, orchard, etc., with intent. Sect. 84.
on Lord's Day or in disguise. Sect. 84.
injury to property of Humane Society. Sect. 88.
- Warrant to search for concealed property held as collateral. Chap. 127, 1865.

Offences against the Person.

A

- Assault with intent to murder, maim, etc. Sect. 20.
- Attempt to murder by poisoning, drowning, etc. Sect. 21.
- Armed assault, with intent to rob, etc. Sect. 23.
- Assault, armed, with intent to rob, etc. Sect. 23.
with intent to rob, not being armed. Sect. 25.
with intent to rape. Sect. 27.
with intent to commit burglary or any felony. Sect. 33.
- Attempt to extort money by threats. Sect. 28.

B

- Body of murderer may be dissected. Sect. 8.

D

- Definition of murder in first degree. Sect. 1.
 in second degree. Sect. 2.
Drivers of vehicles leaving horses without charge. Sect. 36.
Duel, engaging, etc., with dangerous weapon. Sect. 12.
 second held accessory before fact of murder. Sect. 10.

F

- Former conviction, duelling out of State, may be pleaded in bar. Sect. 11.

K

- Kidnapping, etc. Sect. 30.
 where may be tried. Sect. 31.

L

- Loss of life by negligence of common carriers. Sect. 34.
 by street railway, corporation pecuniarily liable. Sect. 37.

M

- Manslaughter, how punished. Sect. 18.
Murder, first degree, how punished. Sect. 1.
 second degree, how punished. Sect. 2.
Maiming, etc., and aiding therein. Sect. 19.
Murder in duel out of State, where prosecuted. Sect. 9.

N

- Negligence of managers of common conveyances. Sect. 35.

P

- Poisoning food, medicine, etc. Sect. 32.
 spring, well, reservoir, etc. Sect. 32.
Petit treason punished as murder. Sect. 7.
Penalty, murder first degree. Sect. 4.
 murder second degree. Sect. 4.
 engaging in duel, no homicide ensuing. Sect. 12.
 challenging to fight a duel. Sect. 12.
 for accepting, carrying challenge or abetting duel. Sect. 13.
 for posting another for not fighting duel. Sect. 14.
 for engaging in prize fight. Sect. 15.
 for aiding, advising, etc., prize fight. Sect. 16.
 leaving State to engage in prize fight. Sect. 17.
 manslaughter. Sect. 18.
 for maiming, etc., or aiding therein. Sect. 19.
 for assaulting with intent to murder. Sect. 20.
 attempt to murder by poisoning, etc. Sect. 21.
 armed assault, intent to rob or murder. Sect. 23.
 for robbery with dangerous weapon. Sect. 22.
 for robbery, not being armed. Sect. 24.
 assault with intent to rob, not being armed. Sect. 25.
 for rape. Sect. 26.
 for assault with intent to rape. Sect. 27.
 attempt to extort money by threats. Sect. 28.

- Penalty, for kidnapping. Sect. 30.
- for poisoning food, medicine, etc. Sect. 32.
- for poisoning spring, well, reservoir. Sect. 32.
- for assaulting with intent to commit burglary. Sect. 33.
- felony. Sect. 33.
- for loss of life on public conveyances. Sect. 34.
- for leaving passenger vehicle without proper care. Sect. 36.

R

- Robbery, armed with dangerous weapon. Sect. 22.
- not being armed. Sect. 24.
- Rape. Sect. 26.

S

- Second in duel held accessory before fact of murder. Sect. 10.
- Street Railway Corporations liable loss of life. Sect. 37.
- to be prosecuted within one year. Sect. 38.
- Steamboat managers, etc., liable for neglect. Sect. 35.
- Stage drivers not to neglect care of passengers. Sect. 36.

Offences against Public Justice.
A

- Aiding escape of prisoner from jail, etc. Sect. 11.
- from officer. Sect. 12.
- an attempt to escape from officer. Sect. 12.

B

- Bribes, giving or offering to legislative or judicial officers, etc. Sect. 7.
- accepting by judicial officers, etc. Sect. 8.
- acceptance of by jurors, referees, etc. Sect. 10.
- taking of by sheriffs, constables, etc. Sect. 21.

C

- Corruption of jurors, referees, etc. Sect. 9.
- Compounding or concealing offences. Sect. 20.
- Corruptly receiving greater fee than law allows. Sect. 22.

D

- Disguising to resist, etc., execution of law. Sect. 19.

E

- Extra official, to act as justice or notary after commission expires. Chap. 231, sect. 2, 1865.

F

- Falsely assuming to be justice of the peace. Sect. 18.
- constable or other officer. Sect. 18.
- Fee, receiving greater than law allows. Sect. 22.

J

- Justices and notaries to be notified expiration of commission. Chap. 231, sect. 1, 1865.
Jailer, etc., refusing to receive custody of prisoner. Sect. 14.

O

- Offering gift to officer with intent, etc. Sect. 7.
Officer negligently allowing prisoner to escape. Sect. 14.
 or jailer refusing to receive custody of prisoner. Sect. 14.
 allowing escape by wilful delay to arrest, etc. Sect. 15.
 refusing to aid and assist when required. Sect. 16.
Officers taking reward for omitting duty. Sect. 21.
 corruptly demanding illegal fees. Sect. 22.

P

- Perjury, punishment of. Sect. 1.
 what shall be deemed. Sect. 2.
 subornation of. Sect. 3.
 inciting to commit. Sect. 4.
 or presumption of, court may commit. Sect. 5.
 on presumption, court may detain papers, etc. Sect. 6.
 etc., offences must be substantially set forth. Chap. 186, sect. 1, 1860.
 subornation of, how indictment may be drawn. Chap. 186, sect. 2, 1860.
Penalty for extra-official act after notice. Chap. 231, sect. 1, 1865.
 for perjury on capital offence. Sect. 1.
 on cases not capital. Sect. 1.
 for subornation of perjury. Sect. 3.
 for inciting to commit perjury. Sect. 4.
 for giving or offering bribes to officers. Sect. 7.
 for accepting bribes by officers. Sect. 8.
 for corrupting jurors, etc. Sect. 9.
 upon juror, etc., for accepting bribes. Sect. 10.
 for aiding in attempt of prisoner to escape. Sects. 11, 12.
 on officer who allows escape of prisoner. Sect. 13.
 for refusing to receive prisoner, etc. Sect. 14.
 to arrest or execute process. Sect. 15.
 to aid and assist officers. Sect. 16.
 to arrest on order of justice of the peace. Sect. 17.
 for falsely assuming to be justice or officer. Sect. 18.
 for disguising to resist execution of law. Sect. 19.
 for compounding and concealing offences. Sect. 20.
 officers taking rewards for omitting duty. Sect. 21.
 for accepting fees greater than law allows. Sect. 22.
 for suffering voluntary escape. Sect. 13.

R

- Refusing to aid and assist officer. Sect. 16.
 to arrest on order of justice of the peace. Sect. 17.
Rescue of prisoner held in custody. Sect. 11.

T

- Taking money on promise not to prosecute. Sect. 20.

V

- Voluntary escape, punishment for suffering. Sect. 13.

Offences against Chastity, Etc.**A**

- Abduction, unmarried female for purpose of marriage. Sect. 1.
- Adultery, how punished. Sect. 3.
- Abortion, advertising notice for procuring. Sect. 10.
- Aiding, etc., enticement away of unmarried female. Sect. 2.

B

- Bastard child, concealment of death by mother. Sect. 11.
- Blasphemy, how punished. Sect. 19.
- Burial grounds, making roads through. Sect. 40.

C

- Concealment of body of bastard infant indictable. Sect. 12.
- Crime against nature. Sect. 18.
- Cutting, etc., trees in places of burial. Sect. 39.

D

- Disturbing religious worship. Sect. 21.
 - schools and public meetings. Sect. 23.
 - funerals and funeral processions. Sect. 24.
- Drunkenness, punishment of. Sect. 25.
 - second conviction. Sect. 26.
 - in city of Boston, how punished. Sect. 27.
- Disorderly persons arrested in night time. Sect. 33.
- Dead body, buying or selling. Sect. 38.

E

- Enticing away unmarried female under sixteen. Sect. 1.
- unmarried female for prostitution. Sect. 2.

F

- Fornication, how punished. Sect. 8.
- Funeral procession, interruption of. Sect. 24.

G

- Gaming within one mile of field for worship. Sect. 22.

H

- House of Correction, master of to receive vagabonds, etc. Sect. 30.

I

- Incest, how punished. Sect. 7.
- Ill-fame, keeping house of. Sect. 13.
 - lease of house of, void, etc. Sect. 14.
- Importing, printing, etc., obscene prints. Chap. 168, sect. 1, 1862.
- Informer, etc., against obscene prints has one-half fine. Chap. 168, sect. 3, 1862.

L

- Lewd and lascivious cohabitation. Sect. 6.

M

- Miscarriage, unlawful attempts to procure. Sect. 9.

N

Night-walker, third conviction. Sect. 35.

O

Obscene prints, etc., selling of. Sect. 15.

informer against, has one-half fine. Chap. 168, sect. 3, 1862.

half fine to prosecutor, etc. Chap. 168, sect. 3, 1862.

to be seized. Chap. 168, sect. 4, 1862.

type for printing to be seized. Chap. 168, sect. 4, 1862.

type to be sold or destroyed. Chap. 168, sect. 5, 1862.

P

Polygamy, definition and punishment of. Sect. 4.

excepted cases. Sect. 5.

Profane cursing and swearing. Sect. 20.

Printing, etc., obscene prints, etc. Chap. 168, sect. 1, 1862.

Penalty for abduction of female. Sect. 1.

for abduction of female for prostitution. Sect. 2.

for adultery. Sect. 3.

for polygamy. Sect. 4.

for lewd, etc., cohabitation. Sect. 6.

for crime of incest. Sect. 7.

of fornication. Sect. 8.

for unlawful attempt to procure miscarriage. Sect. 9.

for advertising, etc., abortion notices. Sect. 10.

concealing death of bastard child. Sect. 11.

keeping house of ill-fame. Sect. 13.

printing, selling, etc., obscene books. Sect. 15.

crime against nature. Sect. 18.

crime of blasphemy. Sect. 19.

for cursing and swearing. Sect. 20.

for disturbing religious worship. Sect. 21.

gaming, etc., within one mile of field for worship. Sect. 22.

disturbing schools and public meetings. Sect. 23.

disturbing funerals. Sect. 24.

for drunkenness. Sect. 25.

for drunkenness, second conviction. Sect. 26.

in city of Boston. Sect. 26.

for vagabondism, etc. Sect. 28.

for vagabonds, etc., conditional, etc. Sect. 29.

night-walkers, third conviction. Sect. 35.

taking dead body on mesne process. Sect. 36.

violation of sepulture. Sect. 37.

buying or selling dead body. Sect. 38.

injury to tombs, etc. Sect. 39.

making roads through burial grounds. Sect. 40.

printing, importing, etc., obscene books, etc. Chap. 168, sect. 1, 1862.

S

Selling, receiving, etc., obscene books, etc. Sect. 15.

Search warrant for obscene prints, etc. Sect. 16.

police courts may issue. Chap. 168, sect. 2, 1862.

Sepulture, violation of. Sect. 37.

- Rioters held responsible for death, etc. Sect. 6.
 responsible for all damage to property. Sect. 6.
 Regulations for streets, carriages, etc. Chap. 301, sect. 1, 1869.
 for streets, hand-organs, etc. Chap. 301, sect. 2, 1869.

S

- Slung-shot, knuckles, billies, penalties for carrying. Sect. 10.
 etc., penalty for manufacturing. Sect. 11.

T

- Towns, etc., to pay three-fourths value damage by riots. Sect. 8.
 may recover damages from rioters. Sect. 9.

U

- Unlawful assemblies, how suppressed. Sect. 1.

Offences against the Public Health.

A

- Adulterating food forbidden. Sect. 3.
 liquors with cochineal, etc. Sect. 4.
 drugs and medicines. Sect. 5.
 Apothecary to keep record of arsenic, etc., sold. Sect. 7.
 Adulteration of milk, penalty for. Chap. 140, sect. 2, 1863.
 names of parties convicted of, to be published. Chap. 140, sect. 3, 1863,
 and Chap. 122, 1864.
 Analyzation of milk, certificate of, made evidence. Chap. 122, sect. 2, 1864.
 Acts requiring sealed cans repealed. Chap. 204, 1867.

B

- Board of Health, establishment of. Chap. 420, 1869.

C

- Calves under four weeks old not marketable. Sect. 2.
 Corrupting springs of water, etc. Sect. 6.

F

- Food adulterated, to be forfeited. Sect. 3.

I

- Injuring reservoir, water pipes, etc. Sect. 6.
 Inspectors of milk, appointment of. Chap. 122, 1864.
 cause milk to be analyzed. Chap. 122, sect. 2, 1864.
 of milk to keep office, and may enter stores, etc. Chap. 122, sect. 2, 1864.
 to make complaints. Chap. 150, sect. 3, 1869.
 to advertise three times. Chap. 150, sect. 5, 1869.
 how appointed. Chap. 122, sect. 1, 1864.
 to give notice of appointment. Chap. 122, sect. 1, 1864.
 may take and analyze milk. Chap. 122, sect. 2, 1864.

M

- Malicious injury to water-pipes, etc. Sect. 6.
Milk, sellers of, to inscribe name on carriage, etc. Chap. 122, sect. 4, 1864.

N

- Names of persons convicted to be published. Chap. 122, sect. 5, 1864.

P

- Provisions unwholesome, penalty for selling. Sect. 1.
Penalty for neglect to record name, etc. Chap. 122, sect. 4, 1864.
for selling adulterated milk. Chap. 150, sect. 1, 1869.
for selling, how recovered. Chap. 150, sect. 3, 1869.
for person employed, same as principal. Chap. 122, sect. 4, 1864.
for second conviction selling adulterated milk. Chap. 122, sect. 4, 1864.
for adulterating milk. Chap. 140, sect. 2, 1863.
for adulterating milk, second conviction. Chap. 140, sect. 2, 1863.
for selling milk of sick or diseased cows. Chap. 122, sect. 4, 1864.
for selling milk of cows fed on deleterious food. Chap. 122, sect. 4, 1864.

S

- State Board of Health, appointment of. Chap. 420, 1869.

Protection of Birds.**D**

- Destroying eggs of undomesticated birds, etc. Chap. 246, sect. 7, 1869.

F

- Fresh water fowl, killing between certain dates. Sect. 5.
or sea fowl, killing on feeding, etc., grounds, prohibited. Sect. 6.

G

- Grouse or partridges, killing within certain dates. Sect. 1.

- Killing undomesticated bird, except, etc., prohibited. Sect. 7.

P

- Pinnated Grouse or Heath Hens, killing, selling, etc., prohibited. Sect. 3.
Penalty for killing woodcock, certain dates. Sect. 1.
plover, certain dates. Sect. 4.
deer, certain dates. Sect. 8.

Q

- Quail, etc., killing within certain dates. Sect. 2.
to be killed only in November and December, after 1872. Sect. 2.

S

- Selectmen, etc., to enforce provisions of law. Sect. 9.

Protection of Religious Meetings.**G**

Gaming, etc., within one mile of camp. Sect. 1.

H

Horse-racing, etc., within one mile of camp. Sect. 1.

I

Interrupting, etc., religious meeting. Chap. 165, G. S., sect. 21.

L

License to transport passengers, etc., to Martha's Vineyard. Chap. 231, 1864.

P

Peddling, etc., without leave within one mile of camp-meeting. Sect. 1.

T

Tent, booth, etc., maintaining, within one mile of camp-meeting. Sect. 1.

Time of camp exemptions not exceeding twelve days annually. Sect. 1.

Transportation near Martha's Vineyard camp-meeting. Chap. 231, 1864.

U

Usual business within one mile of camp excepted. Sect. 1.

Prisoners.**A**

Accused parties may have counsel. Sect. 4, and Chap. 170, sect. 21.

M

Magistrate taking bail, to return recognizance. Chap. 170, sect. 13.

O

Offences prosecuted by indictment, except. Sect. 3.

P

Persons arrested to be informed of cause of arrest. Sect. 1.

indicted, how convicted. Sect. 5.

acquitted by jury on facts, not liable again. Sect. 6.

may be tried second time for same offence. Sect. 7.

not to be punished until legally convicted. Sect. 8.

Prisoners, how to be taken before magistrate for bail. Chap. 170, sect. 13.

Penalty, officer refusing to answer prisoner. Sect. 1.

officer giving false answer to prisoner. Sect. 1.

for refusing to exhibit warrant. Sect. 1.

if officer arrests on false pretence. Sect. 2.

Protection of Animals.**A**

Assessors to take lists of dogs. Chap. 130, sect. 6, 1867.

Appointment of appraisers. Chap. 130, sect. 10, 1867.

Appraisers, how paid. Chap. 130, sect. 10, 1867.

C

Cities and towns may make regulations. Chap. 88, G. S., sect. 67.

Change of residence, license re-recorded. Chap. 130, sect. 5, 1867.

County of Suffolk, disposal of money. Chap. 130, sect. 1, 1867.

Counties to pay damages done by dogs. Chap. 130, sect. 10, 1867.

D

Dog suddenly assaulting, may be killed. Chap. 88, G. S., sect. 60.

may be killed in certain cases. Chap. 88, G. S., sect. 60.

dangerous, confined or killed. Chap. 88, G. S., sect. 61.

dangerous, after notice any person may kill. Chap. 88, G. S., sect. 62.

owners of, to get license. Chap. 130, sect. 1, 1867.

owners of, after notice, liable to treble damage. Chap. 88, G. S., sect. 63.

District Attorneys to prosecute certain cases. Chap. 130, sect. 9, 1867.

F

Fines and penalties, how recovered. Chap. 88, G. S., sect. 68.

for dogs doing damage, how recovered. Chap. 130, sect. 12, 1867.

Fee for dog license. Chap. 130, sect. 1, 1867.

K

Killing, etc., licensed dog. Chap. 88, G. S., sect. 57.

Keeping unlicensed dog, penalty for. Chap. 130, sect. 5, 1867.

L

Licenses to be issued before May 1st, annually. Chap. 130, sect. 1, 1867.

to be recorded. Chap. 130, sect. 3, 1867.

valid in any part of the State. Chap. 130, sect. 5, 1867.

may be transferred with dog. Chap. 130, sect. 5, 1867.

License money to be paid to counties before December 1st. Chap. 130, sect. 3, 1867.

Loss of sheep, etc., appraised and paid by counties. Chap. 130, sect. 10, 1867.

M

Mayor and Selectmen to issue warrant annually to kill dogs. Chap. 130, sect. 7, 1867.

to transmit certificate annually to District Attorneys. Chap.

130, sect. 9, 1867.

O

Owner of dogs liable for damage done. Chap. 88, G. S., sect. 59.

to keep dog collared. Chap. 130, sect. 1, 1867.

or keepers refusing to answer assessors. Chap. 130, sect. 6, 1867.

of sheep, etc., may elect, how to recover. Chap. 130, sect. 10, 1867.

of dogs liable to county for damage done. Chap. 130, sect. 12, 1867.

Officers not on pay, remunerated for dogs killed. Chap. 130, sect. 7, 1867.

to make returns before October 1st, annually. Chap. 130, sect. 8, 1867.

P

- Poison, exposing same to dog, with intent. Chap. 88, G. S., sect. 57.
Persons becoming dog owners after May 1st. Chap. 130, sect. 2, 1867.
Penalty for keeping unlicensed dog. Chap. 130, sect. 5, 1867.
 removing collar from licensed dog. Chap. 88, G. S., sect. 57.
 for refusing to answer assessors. Chap. 130, sect. 6, 1867.
 town officers, etc., refusing to perform duty. Chap. 130, sect. 11, 1867.
Persons aggrieved, etc., may report to District Attorney. Chap. 130, sect. 11, 1867.
 suffering loss by dogs may have appraisement. Chap. 130, sect. 10, 1867.
Proceedings on appraisal of damage. Chap. 130, sect. 10, 1867.

R

- Removing collar from licensed dog. Chap. 88, G. S., sect. 57.
Returns by officers before October 1st, annually. Chap. 130, sect. 8, 1867.

T

- Treasurers to keep accurate accounts of money, etc. Chap. 130, sect. 4, 1867.

U

- Unlicensed dogs killed on warrant. Chap. 130, sect. 7, 1867.
Unexpended money, how appropriated. Chap. 250, sect. 1, 1869.

W

- Warrants to be certified to District Attorney. Chap. 130, sect. 9, 1867.
Warrant, form of, to kill dogs. Chap. 130, sect. 16, 1867.

Petroleum and its Products.**A**

- Amount petroleum kept in one locality, except. Chap. 285, sect. 2, 1866.

B

- Building for storing petroleum, how constructed. Chap. 285, sect. 1, 1866.

C

- Crude petroleum, how may be stored. Chap. 285, sect. 1, 1866.

I

- Inspectors, how appointed. Chap. 286, 1867, and 152, sect. 1, 1869.

L

- License to manufacture, how granted. Chap. 285, sect. 2, 1866.

M

- Municipalities may adopt rules, etc. Chap. 285, sect. 3, 1866, and 152, sect. 9, 1869.

O

- Oils, what deemed mixed with naphtha. Chap. 152, sect. 3, 1869.
Officers to prosecute violations of law. Chap. 286, sect. 6, 1867.

P

- Penalty for violation of license. Chap. 285, sect. 2, 1866.
 for illegally mixing or selling. Chap. 152, sect. 2, 1869.
 for selling under assumed name. Chap. 152, sect. 4, 1869.
 for violating provisions of law. Chap. 152, sect. 11, 1869.

S

- Sales illegal without inspection. Chap. 345, sect. 2, 1869.

Sentence of Criminals.**C**

- Certain courts may commit in any part of State. Sect. 2.
 County from which offender comes to pay for support. Sect. 2.

D

- Defendant may be witness on his own trial. Chap. 260, 1866.

P

- Punishment by imprisonment without fine. Sect. 1.
 by fine without imprisonment. Sect. 1.
 optional with court, conditionally. Sect. 1.

Search Warrants.**S**

- Search Warrants for property stolen. Sect. 1.
 for counterfeit coin, notes, etc. Sect. 2.
 for obscene books, prints, etc. Sect. 2.
 for lottery tickets. Sect. 2.
 for gaming implements. Sect. 2.
 for gaming-house furniture, fixtures, etc. Chap. 364, 1869.
 to whom directed—how served. Sect. 3.
 issued for service in night time. Sect. 4.
 property seized on, kept as evidence. Sect. 5.
 for property hired, leased, etc. Chap. 127, 1865.
 liquor kept for illegal sale. Chap. 415, 1869.
 law preventing cruelty to animals. Chap. 344, sect. 5, 1869.

State Police.**A**

- Appointment of Constable of Commonwealth. Sect. 1.
 Accounts to be sworn to and approved. Sect. 3.

C

- Constable of Commonwealth, how appointed. Sect. 1.
 to reside in Boston. Sect. 1.

Index.

- Constable of Commonwealth to appoint deputies, etc. Sect. 1.
 etc., shall appoint 20 deputies in Suffolk. Sect. 7.
 powers of. Sect. 2.
 shall obey orders of governor and council. Sect. 2.
 shall enforce the laws. Sect. 2.
 shall repress and prevent crime. Sect. 2.
 shall suppress liquor and gambling shops, etc. Sect. 2.
 to make all necessary rules, etc. Sect. 4.
 and deputies, pay of. Sect. 3.
 City and town police to aid, etc. Chap. 261, sect. 2, 1866.
 to act in harmony. Chap. 261, sect. 3, 1866.
 Constable may command aid from municipal police. Sect. 5.

D

- Deputies, number of. Chap. 261, sect. 1, 1866.

F

- Falsely assuming to be constable or deputy. Chap. 261, sect. 5, 1866.

G

- Governor has power to command municipal police. Chap. 261, sect. 5, 1866.

P

- Pay of constable and deputies. Sect. 3.

S

- State and municipal police to suppress liquor selling. Chap. 261, sect. 4, 1866.

Vagrants and Vagabonds.**A**

- Arrested parties found with no visible means of support. Sect. 4.
 when found prowling about depots, shops, etc. Sect. 4.

B

- Burglars, known as such, may be taken into custody. Sect. 4.

I

- Idle and dissolute persons may be arrested and imprisoned. Chap. 165, G. S., sect. 28.

P

- Pickpockets may be arrested as being vagabond. Sect. 4.

V

- Vagrants, who to be deemed. Sect. 1.
 to be arrested and taken before justice. Sect. 2.
 to be committed to House of Correction. Sect. 3.
 Vagabonds, who deemed to be. Chap. 165 G. S., sect. 28.
 may be punished by fine. Chap. 165 G. S., sect. 29.
 may be sentenced to imprisonment. Chap. 165 G. S., sect. 28.

